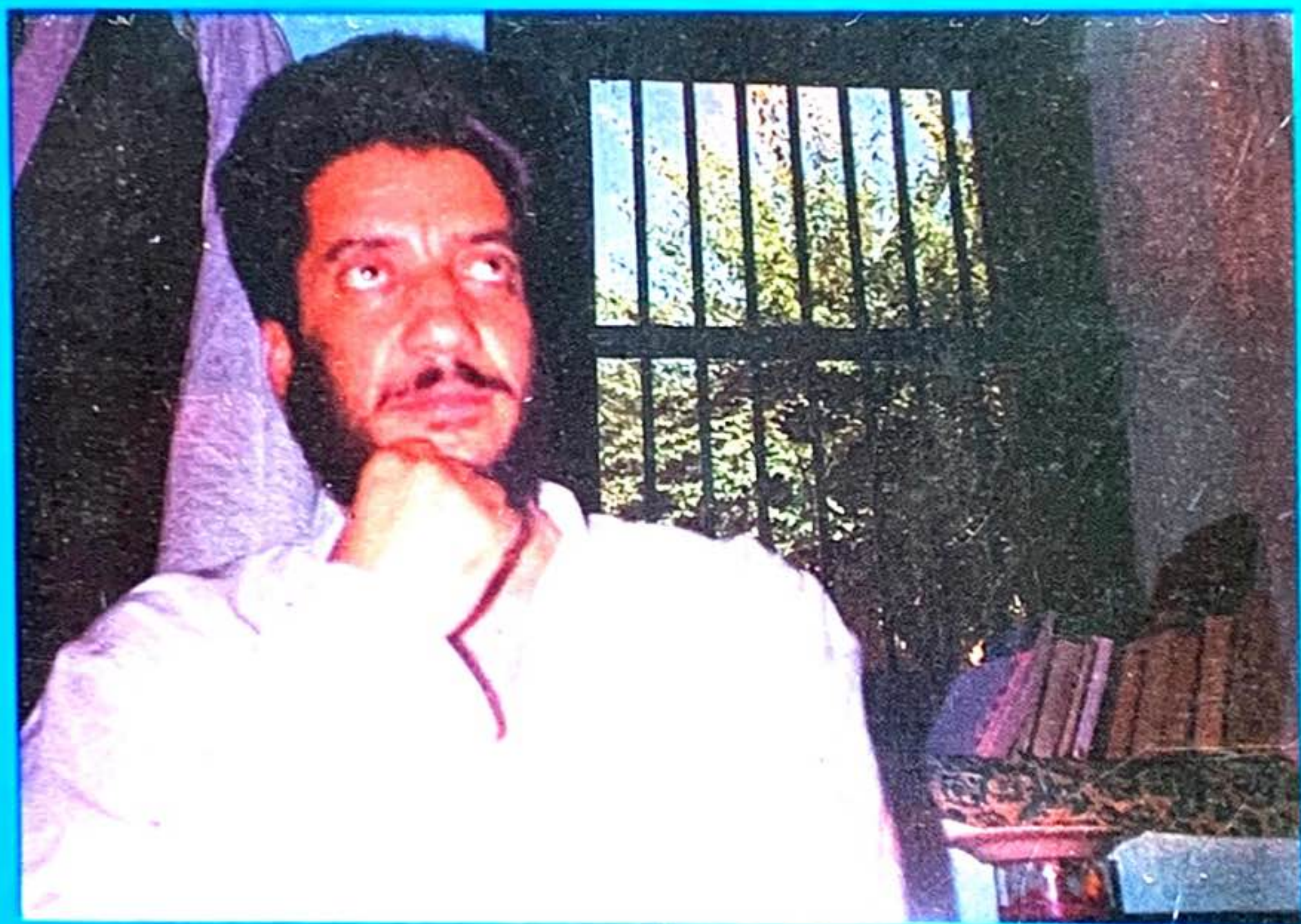


SHABIR SHAH

A living legend in Kashmir History



ALTAF HUSSAIN

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FOREWARD

I have had the benefit of going through the book entitled "Shabir Shah — A Living Legend in Kashmir History" written by Altaf Hussain.

The author of the book deserves to be complimented for his having embarked upon a maiden venture in portraying the life of Shabir Ahmed Shah with clarity of perception and in lucid style. The book contains valuable and useful information as regards notable events of his life depicting the various facets of his political career, bringing home the reader his political ideology, the articles of political faith he professes and holds dear, his deep conviction in democracy as a way of life and his respect for democratic values, and for basic human rights to which he has dedicated his life and for which he has undergone hardships and sufferings for a long period of his life extending to twenty years — the prime of his youth.

There are indeed many others in the field who since a long time valiantly struggled and suffered for the same cause, for the vindication and realisation of the basic right of self expression and other fundamental and democratic rights. These gentlemen and women have encountered untold hardships and have made immense sacrifices, some by attaining martyrdom, some by languishing in jails and living there in unhygienic surroundings and subhuman conditions, braving incompatiable climatic conditions ; many others by becoming targets of brute forces of suppression and repression let loose under the cover of monstrous and Draconian laws in operation from time to time. All these gentlemen and women have become legends in Kashmir history.

Shabir Shah also has become an unexceptionable luminous legendary figure in as much as he has earned the title of "Prisoner of Conscience" bestowed on him by Amnesty International for his unique record of sacrifices, for his prolonged incarceration. His family members were no exception to the torments suffered by them in the long process and prolonged ordeal.

The author has described Shabir Shah as a man of peace, a political activist who prefers a dialogue among India, Pakistan and the representatives of Kashmir to arrange an honourable solution of Kashmir problem in consistent with the demands, wishes and aspirations of the people of the State. The realisation of the urgency of the situation is of utmost importance and calls for dedicated efforts by all the concerned who are interested in the solution of the burning problem in order to bring the two neighbouring countries closer and avert any major conflict.

He sees the whole truth in it. Emulating the example of

*“Men who for truth and honour’s sake
Stand steadfast and suffer long”*

Shabir Shah has exhibited high qualities of patience and perseverance, gentleness and sobriety. He has human approach to problems.

Perceptions may differ. But this is the essence of democracy. Freedom to hold one’s views and freedom of expression are the attributes and in fact corner stone of democracy. This is one of the basic human rights which must be allowed and respected.

The book on the whole and Chapter I — dealing with *“Kashmir Struggle—An Historical Perspective”* in particular — is quite informative. It makes an objective study of events. It is however for the reader to draw his own conclusions. The author has taken pains in collecting relevant solid material for preparing the book and has worked hard in making it presentable in an orderly fashion.

I hope that the book will make an interesting and useful reading and that it will enjoy wide circulation.

(Justice Mian Jalal-Ud-Din)
Former Chief Justice,
J & K High Court.

PREFACE

The life of Jammu and Kashmir Peoples League Supremo, Syed Shabir Ahmed Shah, symbolizes oppression, hardships and torture suffered by Kashmiris, mostly the innocent and helpless youth, ever since this sovereign independent state was divided into two parts through sheer political manipulation and military force. The Indian troops that landed the Srinagar Airport on 27 October, 1947, apparently to help the people of Jammu and Kashmir in pushing back the so-called infiltrators, have virtually turned out to be the parasites upon the peace and prosperity of the State. The Indian leaders who sent these troops in pursuance of an 'instrument of accession' between them and Maharaja Hari Singh, which for all practical purposes was provisional and subject to ratification by the people, have converted this 'terrestrial paradise' into a 'burning inferno' and reduced it to a colony, holding the innocent Kashmiris hostages as they have been kept on the other side of the cease-fire line. Instead of fulfilling their often committed promises to hold a plebiscite in the State of Jammu and Kashmir and allow its 12 million inhabitants to determine their future, both India and Pakistan have always been trying to put each other strategically under pressure, at the cost of helpless Kashmiris, as a result of which there has always been persistent chaos and confusion in the Sub-continent. The Simla Agreement in which the well known cease-fire line was theoretically converted into 'the line of actual control', without the knowledge of those Kashmiris whose life was at stake, was one of those canny devices employed by these countries to reduce the Kashmir Issue into a territorial dispute between two neighbouring countries. Those Kashmiris who have been resisting against this high-handedness or who have ventured to throw off the yoke of slavery are being branded as traitors or anti-national elements and, consequently, are subjected to torture in prison cells and interrogation centres, though they are the real sons of the soil.

One of these true 'sons of the soil' is Shabir Shah, the undisputed youth leader of the freedom struggle of Jammu and Kashmir and the mastermind behind the present mass upsurge in the State, which the Government of India has been trying to crush through massacre of people, burning alive of human beings, illegal raids and searches, arrests and detentions, interrogation and custodial deaths, humiliation of young and old, desecration of mosques and grave-yards and destruction of human habitations and business establishments. It is "a blot on secular and democratic character of India, as well as a sad reflection on the Indian legal system, that a youngman like Shabir Shah, who preaches and practices non-violence, is frequently thrown into jails and interrogation centres and never brought to trial for the apparent 'crime' of demanding freedom for Kashmir".¹ The only fault of this 'jail bird' is his dedication and allegiance to the cause of freedom and other human rights of Kashmiris as well as their right of self-determination, a right promised to them by the Governments of India and Pakistan at the U.N. Security Council. His weapon all along has been persuasion, through world opinion brought to bear upon the Governments of India and Pakistan to arrange an honourable solution of the 'Kashmir Problem' in accordance with the aspirations of the people of Kashmir. He propagates and pleads what the great American President Woodrow Wilson once said:

*National aspirations must be respected. Peoples may be dominated and governed by their consent. Self-determination is not a mere phrase, it is an imperative principle of action.*²

He, alongwith thousands of Kashmiri youth, has been reminding the Indian leaders what Pandit Jawahar Lal Nehru said, in an address to All India Congress Committee, on 9 July, 1951 :

Kashmir has been wrongly looked upon as a prize for India or Pakistan. People seem to

*forget that Kashmir is not a commodity for sale to be bartered. It has an individual existence and its people must be arbiters of their future.*³

He believes in what Norman F. Lent, member of the American Congress, very recently stated —

*As a co-sponsor of 'The Freedom for Kashmir Resolution' (House Resolution 87) which calls for freedom and democracy for the people of Kashmir, I deplore the actions of the Indian Government in Kashmir and fully support freedom and democracy for the Kashmiri people. It continues to be my belief that the United States and the international community should spare no effort to secure self-determination for Kashmir.*⁴

Since Shabir Ahmed Shah is neither the American President nor Pandit Jawahar Lal Nehru but a Kashmiri leader who has seen and suffered the agonies of slavery, he has been subjected to brutal tortures during 20 years imprisonment for reiterating an established fact and acknowledged truth. Not only he but also his entire family had to pay a huge price : his father, Ghulam Mohammad Shah, was tortured to death in police custody, his mother, sister and elder brother were subjected to various indignities, including frequent raids on their houses and he himself was subjected to torture in the most notorious interrogation centres and prisons in India for more than 20 years. He is neither a militant nor a terrorist but a non-violent political activist who prefers a dialogue among India, Pakistan and representatives of Kashmiris in order to arrange an honourable solution of Kashmir Problem in accordance with the aspiration of the people as well as the U.N. Resolution dated 21 April 1948 which states that

the future of the State of Jammu and Kashmir be decided through a fair and unfettered plebiscite.

He believe that world powers like the United States, Western Europe and the United Nations can and should play an important role in pressurizing both India and Pakistan to grant innocent Kashmiris their right of self-determination. His continuous detention without any crime—the Government is yet to prove any crime against him though he has been allegedly involved in various false cases—his convictions and his ‘allegiance to a noble cause’ very recently attracted the attention of various human rights groups all over the world, particularly the Amnesty International, which conferred on this young leader the title of “A Prisoner of Conscience”. (See Appendix XV)

This book attempts to bring forth some important facts about Shabir Shah’s life and convictions focusing, at the same time, upon his contribution to the freedom struggle of Kashmir. The first Chapter of the book *“Kashmir Problem : An Historical Perspective”* analyses the background in which the State of Jammu and Kashmir was divided and brings out the personalities, forces, agencies and events that played a vital part in leaving this problem unsolved. The second chapter *“Making of a Political Leader”* projects the family background and also the personalities and events that played a dominant role in his childhood. The third chapter *“Jail-bird”* depicts his political career as well as the sufferings he and his family had to undergo in the form of imprisonments and interrogations during the last three decades. The fourth chapter *“Secessionist or Patriot”* brings forth the allegations levelled against Shabir Shah by the Government from time to time and at the same time depicts the immense mass support he enjoys in the State of Jammu and Kashmir. It also highlights the world recognition he has got for struggling for a genuine cause. The last Chapter *“Man of Conscience”* projects the beliefs and convictions of Shabir Shah as well as his role in the present freedom struggle of Jammu and Kashmir.

I am fully conscious of the dangers inherent in writing about a living political leader, particularly under the

present conditions when to be a Kashmiri Muslim is a curse and to be young is a crime. The danger is more threatening in view of the fact that Shabir Shah is still in his early 40's and confined in prison, and also allegedly involved in the crime of instigating an armed rebellion in the State of Jammu and Kashmir. Similarly, writing about a political leader who, incidently, belongs to a political organisation, involves the danger of being misunderstood by the workers of other organisations which are equally important so far as their contribution to the freedom struggle of Kashmir is concerned. However, keeping in view Shabir Shah's dedication and incarceration for the cause of freedom and human rights of Kashmiris, including their right of self-determination, his unshakeable belief in the peaceful solution of the Kashmir Problem, and, above all, the immense popularity and mass support he enjoys in the State of Jammu and Kashmir, I ventured to write this book for purely academic interests.

While writing this book I received help from persons and agencies—too numerous to name individually—to whom I am highly obliged. I am also thankful to the family of Syed Shabir Ahmed Shah, particularly his sister Mrs. Hassina Dawood, for providing me the information about Shabir Shah's private childhood as well as for making available the various photographs included in this book. I also thank the workers of Jammu and Kashmir Students Organisation for their cooperation and support at each and every step during the process of writing this book. I am also highly thankful to my parents and friends for their encouragement and to my wife Nighat for her patience in sitting with me during those late hours when I was writing this book. In spite of my best efforts to be objective in my approach and evade the mistakes of being emotional rather than factual, there may be some draw backs in this book. I, therefore, welcome my readers to locate these drawbacks so that in the next edition these are removed.

NOTES AND REFERENCES

1. See M. Farooq Kathwari, Chairman of the Council for Human Rights in Kashmir, dated 31 December 1991 (Appendix—I).
2. Cited in *Greater Kashmir* (Srinagar) Dated 16 November 1991.
3. *Ibid.*
4. Letter (5 February 1992) of Norman F. Lent to M. Farooq Khan, Chairman, Department of Medicine, Nassau County Medical Center (2201, Hempstead Turnpike, New York).

CHAPTER I

KASHMIR PROBLEM

An Historical Perspective

*Where the crime of being born,
Balckens all our lot.*

(W.B. Yeats)

For future generations, particularly for the students of history, it might be an enigma to reconcile with diverse things that turned the State of Jammu and Kashmir in general, and the Valley of Kashmir in particular, into a burning inferno. Kashmir, one of the most blessed spots upon the earth and generally recognised as the original paradise of the human race, always offered a wide range of game for the lover of sports, a "great wealth of flora and fauna" for the botanist and zoologist, "an inexhaustible theme to the genius of the poet and a background for the contemplation of philosophers."¹ However, for the inhabitants of this terrestrial paradise it has always been a persistent pain and anguish to see their homeland being converted into a battlefield by the alien forces who made the poor stay-at-home Kashmiri tremble and quake, weep and howl. Even after 1947 when the Britishers left the subcontinent and the two Independent Sovereign States, India and Pakistan, came into existence, Kashmiris have witnessed their beautiful land being converted into army pickets, prison cells and interrogation centres. In order to understand the reasons behind all this exploitation and subjugation of the people of Jammu and Kashmir it is very essential to analyse the Kashmir problem in its proper historical perspective.

Technically speaking, the Jammu and Kashmir State was an independent sovereign State even upto 15th August, 1947 when India and Pakistan came into being as two

distinctive independent States in the subcontinent. It was one of those princely states about which Jinnah had very rightly suggested that "they must, as completely independent States, free from paramountcy, consider, what is in their best interest and it will be open to them to decide whether they should join the Pakistan Constituent Assembly or the Hindustan Constituent Assembly."² However, in the British Government or Mountbatten plan the position of the princely states was dealt with in a small paragraph affirming that their policy towards Indian States contained in Cabinet Mission Memorandum of 12 May 1946 remains unchanged.

According to the Cabinet Mission the princely states were fully entitled to say that "they would join neither of the constituent assemblies if the states wished to come in, they could do so by agreement but there was no way of forcing them in."³ Taking into consideration the provisions of this statement, regarding the accession to either India or Pakistan, the geographical, ethnic and economic links of the State were more with Pakistan than with India. In fact, till 15th August 1947 the people of Jammu and Kashmir hoped that they too will enjoy freedom, like the people of India and Pakistan, or at least Maharaja Hari Singh will accede to Pakistan in view of the compulsions of geographical contiguity as well as the composition of population of the State. In fact, Kashmiris had already celebrated Pakistan Independence Day on 14th August, 1947 by hoisting Pakistan flags on roof tops, markets, business and other commercial establishments. Had the ethos of the partition been actually adhered to and the Gurdaspur District of the Punjab awarded to Pakistan, the land access of India to the State would have been extremely difficult because it had to be through the Kangara District of the Punjab over the extremely difficult terrain provided by the foothills of the Himalayas.⁴ However, Lord Mountbatten and Cyrill Radcliffe, with their tactics and dexterous methods produced an explosion more powerful

than the atom bomb at Hiroshima in the World War II by awarding the strategic Muslim majority Gurdaspur District of Punjab to India, though the people of Gurdaspur had celebrated the independence day as the citizens of Pakistan. It was done in order to give India access to Kashmir and borders of Ladakh, creating thereby a perpetual conflict between India and Pakistan and capturing the markets of the sub-continent. Lord Mountbatten is believed to have told all princes/rulers of the princely states : "You are about to face a revolution..... In a very brief moment you will lose your sovereignty for ever".⁵

Even before Lord Mountbatten handed over the partition plan to Mr. Jinnah and Mr. Nehru on 16th August, the Maharaja of Jammu and Kashmir, Hari Singh, in his attempt to retain the sovereignty of the State had sought to secure a standstill agreement with both India and Pakistan to ensure that the old arrangements of trade, communication and services continued with what had hitherto been British India. In this connection the Maharaja's new Prime Minister, Mr. C.V. Mahajan had given a telegram to both countries (India and Pakistan) on 12 August to which Pakistan agreed on 15 August while India propositioned, arguing that the matter needed to be negotiated by an official from the State to New Delhi which was never done. On the other hand, many Pakistani leaders like Jinnah and Liaquat Ali Khan having felt a profound sense of betrayal by the Radcliffe Commission, knew the deceitful nature of Indian leaders and began to contemplate new courses of action. They were encouraged by Janak Singh's failure to maintain Maharaja Hari Singh's control over his own territories, particularly in the predominant Muslim area of Poonch where "the inhabitants had never reconciled themselves to new subjugation by the Maharaja's Government in 1935-36 and had more social links with Pakistan"⁶ Since about 60,000 people in that area had served in the Indian Army during the war, they raised a no-tax campaign which rapidly developed

into a secessionist movement. About two weeks after the transfer of power there were major clashes between State troops, mainly Hindu Dogras, and Poonch crowds, resulting in a large number of civilian casualties. Following these and the similar kinds of incidents, the Hindu extremists in Jammu attacked Muslim villages and displaced at least 500,000 Muslims out of which 200,000 were killed and the rest made their way to Pakistan.⁷

When these displaced and helpless people went Pakistan and recited to their Muslim brethren the horrible treatment given to them by the Hindu extremists they got provoked and decided to help the Muslims in the state. By the beginning of September bands of Poonchmen, equipped with weapons obtained from the Frontier and from other informal sources in Pakistan, had already come into conflict with Jammu and Kashmir forces throughout the Poonch Jagir and in Mirpur District of Jammu to its immediate South.⁸ They were also being joined by small groups of volunteers from Pakistani territory which was hardly surprising under the prevailing conditions. Subsequently, a kind of military organisation was imposed upon the Muslim rebels by men like Sardar Abdul Qayoom Khan and he was joined by a large number of descendant Muslim officers who had fought with the Japanese in the World War II. Though it was a matter of internal insurgency, the interference of Pakistan can hardly be ruled out because Pak leaders like Liqueat Ali Khan, Ghulam Mohammad, and Sardar Shaukat Hayat Khan took the practical steps to aid the rebels. Besides, as Wolpert points out, the Government of Jammu and Kashmir rightly accused Pakistan of deliberately withholding supplies of petrol, oils, food, salt and cloth, as a result of which it sought assistance from India whence, by the middle of October, supplies were being sent by lorry to Srinagar.⁹ No doubt Pakistan attributed the non-despatching of supplies to the reluctance of lorry drivers to cross border tracts between Jammu and Kashmir and Pakistan which were

then greatly disturbed by communal violence, but the acrimonious tone of the correspondence between the Maharaja and Liaquat Ali Khan is of vital significance, because it tells a different tale altogether.¹⁰ It is based on an exchange of threats concerning accession and reactions to accession, and testifies the apprehensions lurking in the minds of the Maharaja that strong characters like Jinnah and Nehru were certainly not going to abandon the Kashmir prize without a fight.

The Maharaja of Jammu and Kashmir was steadily losing control over large parts of his State by the time Mehr Chand Mahajan joined as Prime Minister of State. Mahajan was not only a native of Gurdaspur but also a member of the Radcliffe Boundary Commission and had played a vital part in granting Gurdaspur to India. Before his joining formally the office of Prime Ministership of J & K "he visited New Delhi on 11 October 1947 and called on Sardar Patel, Pandit Nehru, Mahatma Gandhi, Lord Mountbatten and V.P. Menon who advised him to bring about the accession of the state to India anyhow."¹¹ The winter was approaching and Nehru was very enthusiastic in the military intervention because, as he himself noted in a letter to Patel on 27 September, by the end of October or the beginning of November most of the State of Jammu and Kashmir would be isolated from India. Sardar Patel's correspondence (1945—50) furnish enough evidence that Indian leaders had pre-planned the military intervention in Jammu and Kashmir as they did in Junagadh and Hyderabad (two princely states who initially did not join any of the two dominions) and negates the argument of those who assert that India was taken by surprise and intervened at the behest of the Maharaja. Providing the Srinagar airfield with wireless equipment to make it suitable for bad weather operation, supplying extra arms and ammunition to Jammu and Kashmir Armed Force, accelerating the improvement of road between Pathankot and Jammu and finally expanding the telegraphic lines of

communication so as to be in touch with Kashmiri Hindus also testifies the pre-planning of the Indian leaders to seek the military intervention in the state.¹² The internal coup within the State of Jammu and Kashmir and a rebellion against the Maharaja by his Muslim subjects, which was labelled by pro-Indian elements like Sheikh Abdullah and his allies as the external aggression, provided only a stimulus to Indian intervention. Mahajan's own statement that when he reached Jammu the airfield in Srinagar was firmly in Indian hands and his refusal to leave New Delhi for Jammu until "I got news from my aerodrome officer at Srinager that the Indian forces had landed there" justifies that the Indian intervention actually took place before the formalities of accession had been completed.¹³ Again, the duplicity and deceitful nature of the Indian leaders can be understood from the conflicting accounts of Mahajan and Menon, both were together, because according to the former they flew upto Jammu on 27 October whereas according to the later on the afternoon of 26 October to obtain from the Maharaja the signed instrument of accession.¹⁴

The entire drama was enacted in consultation with Sheikh Mohammad Abdullah who became head of the Jammu and Kashmir Emergency Government on 29 October, with Bakshi Ghulam Mohammad as his Deputy and Mirza Afzal Beg as a Minister — a thing more crucial in the eyes of Nehru than the entire Agreement of Accession. Sheikh Abdullah, it is to be pointed out here, who was in prison since 10 September 1947 and about whose release Nehru was pressing the Maharaja, had this time lost the support of people. The Maharaja agreed to accede to the request of Nehru and other Congress leaders on the condition that Sheikh Abdullah apologized and gave up his 'Quit Kashmir Movement' and owed allegiance to the Maharaja. Consequently, a close associate of Nehru, Khan Abdul Gaffar Khan and other nationalist leaders, and arch opponents of Jinnah's two nation thory, persuaded

Abdullah to neglect his public commitments and declared policy and write the Maharaja an open apology (on 26 September) owing allegiance and loyalty to him and accept the country of Jammu and Kashmir to attain an era of peace, prosperity and good Government under the aegis of Maharaja Hari Singh.

The argument that Sheikh Abdullah was helpless under the circumstances, and had he been familiar with the dominant mood of Muslims he would have changed his stance, does not hold true because throughout his life he propagated and adhered to the secular and socialistic ideology and considered the Indian leaders the torch bearers of this ideology. Besides, he had an apprehension that he and his party workers would not be forgiven for the treatment they showed to Jinnah in 1944 and to the Muslim Conference leaders who had by then fled to Muzaffarabad and Pakistan.

While accepting formally the Maharaja's accession Lord Mountbatten wrote a letter to him stating, ".....it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invaders the question of the State's accession should be settled by a reference to the people."¹⁵ The expression, "reference to the people" possibly meant plebiscite to Mountbatten as it did mean to the people of Jammu and Kashmir as well as to the Government of Pakistan. However, to Nehru and Patel as well as to their successors it meant something else, probably the establishment of Sheikh's Government or the Government of National Conference leaders whom they took for granted. When in his speech, broadcasted on All India Radio on 2 November 1947, Nehru confirmed that "the fate of Kashmir is ultimately to be decided by the people", that "that pledge we have given" which "we will not, and cannot back out of", and that "We are prepared when peace and law and order have been established to have referendum held under international auspices like the United Nations", he had at the back of his

mind the established political processes of the State of Jammu and Kashmir and their exploitation by Sheikh Abdullah.¹⁶ It was, therefore, a well planned strategy by Nehru to challenge the two nation theory by creating a secular state within the Indian Union out of Muslim majority region through the efforts of Sheikh Abdullah and his allies. Without Sheikh Abdullah the entire State would have gradually fallen into the hands of the rebel movement that was established in Poonch and one day it would have become internationally accepted as Azad Kashmir.

The Kashmir dispute, therefore, evolved into an armed conflict between India and Pakistan in October 1947 itself and both countries adopted public positions on the Kashmir problem from which they found it impossible to depart. The Indian leaders like Nehru and Patel argued that the purpose of India's intervention was to help the Maharaja to restore peace and order by pushing back the tribesmen and the action was done at the request of the Maharaja and his Government. Pakistan, on the other hand, always challenged the validity of the Maharaja's accession to India because it was a violation of the stand-still agreement which the State had entered with Pakistan in August 1947 and because the Maharaja by 26/27 October was no longer competent to sign the agreement as he had to all intents and purposes been overthrown by his subjects and by the Azad Kashmir Government which was already in operation.

In such an atmosphere of mutual suspicion, particularly when the war between two opposite forces was going on, Mountbatten and Lord Ismay went to Lahore on 1 November 1947 to discuss the Kashmir crisis with Jinnah and Liaquat Ali Khan, Nehru and Patel did not accompany them, and suggested them that the Kashmir issue could be settled by a plebiscite under the supervision of the United Nations only after the withdrawal of tribesmen. However, Liaquat Ali Khan's attendance at a meeting of the Joint Defence Council in Delhi in the first week of December 1947 and

the immediate follow up visit of Mountbatten, Nehru, Baldev Singh and Gopalaswamy Iyyenger, to Pakistan on 8 December 1947 ended in mutual suspicion and lack of trust because virtually both the parties were contesting over rights to a territory rather than on the struggle to establish the wishes of the people.

Subsequently, Indian Government placed the Kashmir issue, at the advice of Lord Mountbatten, before the Security Council on 1 January 1948 and Indian representative Gopalaswamy, in the Council's 27th meeting held on 15 January 1948 stated that the Government of India is fully committed to the promise that after peace is restored in Kashmir and all people belonging to the State have returned there, a free plebiscite should be arranged and the people should decide whether "they would withdraw from her [Jammu and Kashmir's] accession to India and either accede to Pakistan or remain independent, with a right to claim admission as a member of United Nations...."¹⁷ Since 15 January 1948 the United Nations devoted 140 meetings to the consideration of Kashmir issue and passed 16 resolutions — which still figure in the documents of the Security Council under SCOR/646 dated 15 January 1948, S/726 dated 3 December, 1948 ; and the Supplement to 15 January 1948 as U.N. Doc-S/1100, U.N. Doc-S/1196, U.N. Doc-S/3922. All these resolutions, as well as the historic resolution dated 21 April 1948, unambiguously recognise Kashmiris right of self-determination and state that the future of the State of Jammu and Kashmir be decided through a fair and unfettered plebiscite. After hearing the delegations of both the countries, the Security Council, on 17 January 1948, in its resolution, called upon Governments of India and Pakistan to desist from aggravating the situation any further and simultaneously in its resolution of 20 January 1948 decided to nominate a three member commission — one from Security Council, India and Pakistan — for on the spot verification and investigation. However, the nomination of the members

was not finalised for months together which gave Indian Army ample opportunity to push back the Liberation Army. Since by May 1948 Indian forces were pressing dangerously towards Poonch—West Punjab border, Pakistan despatched her troops to support the Kashmir Liberation Army. The result was that the territory which had once made up on the map the State of Jammu and Kashmir was cut into two portions of comparable area : Pakistan held the Gilgit region, Baltistan and narrow strip of Kashmir Province, Poonch and Mirpur in Jammu along the West Punjab border, whereas India held Ladakh, the bulk of Kashmir Province and Jammu, and a portion of Poonch. Once Kashmir and Kashmiris were divided, there started the negotiations leading to a cease-fire which took effect on 1 January 1949. On 27 July 1949 Indian and Pakistani military representatives signed at Karachi an agreement defining a cease-fire line in the State of Jammu and Kashmir, and ironically enough the Army Commanders of both the countries were Englishmen who “left this great curse” upon the innocent Kashmiris before departing from this soil. In short the selfish motives of the British paramountcy, the Indian leaders and their Pakistani counterparts, in the name of political, economic, ethnic and geographical strategies, divided this “heavenly abode upon earth” leaving thereby, a perpetual pain and anguish for its 12 million innocent inhabitants.

Unfortunately, even the United Nations has not done anything, though it was one of the few disputes put before it after its creation at the end of World War II. The argument put forward by writers like S. Chopra, M. R. Khan, Rahmatullah Khan, S. Gupta and even Alastair Lamb that “in the Kashmir dispute the United Nations has never possessed either the power or the mandate to enforce a settlement : It could advise and recommend”¹⁸ is partially true because even the United Nations has become an agency of the Super-powers who possess the right of veto. Consequently, these Super-powers deliberately kept

the Kashmir issue in abeyance just to retain their domination in the sub-continent : United States of America favouring Pakistan, and Russia supporting India by vetoing the UN resolutions. Even recently when Russia disintegrated and India shifted her allegiance to USA, the issue still remains as it is because of the hegemony of America and other European powers in the United Nations. Besides, even the Governments of India and Pakistan did not agree on the structure and organization of plebiscite because India insisted that a plebiscite should follow the total withdrawal of tribal invaders from Jammu and Kashmir, including the Gilgit Agency and Azad Kashmir, so as to ensure an overwhelming majority vote for them through their puppet Sheikh Mohammad Abdullah. Pakistan, on the other hand, insisted that prior to plebiscite there should be complete withdrawal of Indian forces as well as the establishment of an 'impartial' Government in Jammu and Kashmir so as to neutralize Sheikh Abdullah's influence. It, therefore, resulted in the failure of Commissions headed by eminent personalities like M.C. Naughton Dixon, Graham and others. Since both countries had apprehensions, there was hardly an enthusiasm to solve the Kashmir problem; and both were content from what they got, though both agreed that the State of Jammu and Kashmir would be treated as a whole. However, whereas India remained contented holding a great deal of territory in the State of Jammu and Kashmir and the majority of the State's population and economic sources, Pakistan always found herself in loss as did the people in the India held Kashmir. Though even now Pakistan continues to raise the issue in the international forums to seek fulfilment of plebiscite for the people of Kashmir, India has been successful in reducing its settlement to bilateralism under the Simla Agreement, neglecting the 12 millions Kashmiris whose future is at stake.

Since the accession was provisional and required subsequent ratification of the people of the State — and there were the UN resolutions that India and Pakistan should “create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede India or Pakistan”¹⁹ — Pandit Nehru, ‘the greatest manipulator in the sub-continent’ began to devise the ways and means of integrating Kashmir with India. Initially, in October 1947, he compelled the Maharaja to make Sheikh Abdullah as the administrator of the State, though Mahajan was still Prime Minister, and delegate all military powers to him and his associates including Bakshi Ghulam Mohammad, Mirza Afzal Beg, G.M. Sadiq, S.L. Saraf, G.L. Dogra, Sardar Budh Singh and others. As a result of it, within six weeks of having been obliged to entrust to him the defacto leadership of the administration, the State Government reminded one of Nazi Germany run by gangsters without the benefit of rule of law, and the National Conference workers remained busy in setting trade and renting out State transport without interference from the Government. However, events were soon to demonstrate that Sheikh Abdullah was no subservient follower of India as Nehru had imagined him to be. His regime, from the outset a potential dictatorship and one-party State (by virtue of the constitutional ambiguities), was soon to become a problem for the Indian leaders, including Nehru. Whereas the Indian leaders were bent upon integrating the State with India completely, Sheikh Abdullah, who had no profound and logically rigorous political thought except a belief in ‘Kashmiri nationalism’, wanted to retain his dictatorship, neglecting that the Dogras of Jammu and the Buddhists of Ladakh would never allow him to live in peace. Even the United States Ambassador to India, Loy Henderson, who secretly visited Sheikh Abdullah in Srinagar, in September 1950, reported that “in discussing future Kashmir, Abdullah was vigorous in restating his opinion that it should be

independent ; and that he had reasons to believe that some Azad Kashmir leaders too desire independence and would be willing to cooperate with leaders of National Conference".²⁰ Infact, there are clear evidence that Sheikh was in correspondence with Chaudhri Ghulam Abbas and other Azad Kashmir Leaders seeking some formula for the reunification of the divided Kashmir.

The immediate reaction to such a policy was the downfall of Abbas in Azad Kashmir and the subsequent downfall of Sheikh in the Valley of Kashmir. Once it became known to Nehru and other Indian leaders that Sheikh is struggling for an independent Kashmir, they devised the method of constitutional checks to involve not only the structure of the internal Government of the State but also the State's formal relationship with the Indian union. The process, in fact, had already started when, in January 1950, the Indian Constituent Assembly gave Jammu and Kashmir a peculiar position by Article 370, deeming the State to be an integral part of Indian Union.²¹ The Article was drafted by Gopalaswamy Ayyenger and Sheikh Abdullah and was not only ambiguous but also complex.

Sheikh Mohammad Abdullah, whom Nehru eulogized as the personification of secularism, as well as the sole leader of the Kashmiri people, enjoyed an extraordinary degree of latitude in devising of a constitution for the Jammu and Kashmir Constituent Assembly. On 30 April 1951, the Sadar-i-Riyasat formally announced the provisions for election for a Constituent Assembly for the State of Jammu and Kashmir. The Assembly was convened in October 1951 and, though in theory its members had been elected, it was a manipulation of Sheikh Mohammad Abdullah's National Conference which managed to win all 75 seats (reserving 25 seats for Azad Kashmir). Alastair Lamb very rightly sums up the validity and authenticity of these elections when he states, "Since it was a mockery of the concept of universal adult sufferage and the compilation of the electoral rolls as well as the registration

of nomination was supervised by Sheikh and his National Conference workers, seventy three delegates returned unopposed and only 5% of the potential electorate actually voted.”²² Out of the sheer ignorance Sheikh saw the Constituent Assembly as a continuation of Kashmir’s freedom struggle and believed that the Assembly was a sovereign body, quite independent of the Indian Constitution, in possession of the power to revoke “accession” should it decide so.²³ Nehru, on the other hand, used it as a way of reinforcing his claim that Sheikh Abdullah’s National Conference did really represent the will of the people of the State of Jammu and Kashmir and the elections can be used as a substitute for a plebiscite, an argument used by the Indian leaders since then for the rejection of proposals for a plebiscite to decide the future of Jammu and Kashmir.

Consequently, there arose the difference of opinion between Indian leaders and Sheikh Mohammad Abdullah regarding the nature of relationship between India and Jammu and Kashmir. In April 1952 when Ayyengar proposed to increase the degree of the financial integration of the State with Indian Union, Sheikh Abdullah reacted sharply and described it, on 10 April 1952, in a public gathering at Rambir Singh Pura “as unrealistic, childish and savouring of lunacy”. Sensing this disparity, Nehru, in June 1952, invited the Kashmiri leaders like Sheikh Abdullah, Mirza Afzal Beg, Mohammad Sayeed Masoodi, D.P. Dhar, Bakshi Ghulam Mohammad, G.M. Sadiq and Sayeed Mir Qasim to New Delhi and initiated a dialogue with them, along with the leading Indian politicians belonging to various opposition parties. An agreement, generally called the Delhi-Accord or Agreement, was reached between Sheikh Abdullah’s faction and Pandit Nehru, on 24 July 1952, which Sheikh Abdullah outlined in the so-called Kashmir Constituent Assembly on 11 August 1952.²⁴ After discussing the utility and significance of the accord he concluded : “It is, of course, for the Constituent

Assembly, which is seized of these matters, to determine the extent and scope of the State's accession to India. The Assembly may agree to continue this relationship on the present basis or extent its scope as it might like and consider feasible and proper.²⁵

Though Nehru and the Indian leaders succeeded in their mission to keep Sheikh Abdullah happy and thereby justify the Indian military presence in Jammu and Kashmir, they soon realized the grave flaws in their reasoning. Consequently, soon after the Delhi Accord, they engineered an agitation against Sheikh Abdullah's Government in Jammu, through the leaders of Praja Parishad particularly Prem Nath Dogra. The rise of Praja Parishad agitation in Jammu which, at the behest of Indian leaders like Nehru, Patel, Kriplani and Mukerjee, raised the slogans like "One Legislature, One Prime Minister and only One Flag", soon after the Delhi Accord, deteriorated the conditions in the State. The agitation not only created the gulf between the people of two regions — Jammu and Kashmir — but also gave rise to a perpetual misunderstanding between them. Since all these activities in Jammu were being manipulated by Indian leaders and Jana Sangh activists, Sheikh Abdullah outrightly criticized them and used force to crush this upsurge. However, in the spring of 1953, Praja Prashad Satyagarh activity got a mounting tempo when Shyama Prashad Mukerjee, the leading Jana Sangh leader, voluntarily entered the State to help the movement, ignoring all the legal implications, as well as the consequences of infiltration. He was arrested and taken to Srinagar where he died of a heart attack on 23 June 1953 in detention at the Cheshma Shahi rest house. His death gave an ample opportunity to the director of Intelligence Bearu, B.N. Malik, who had an easy access to Nehru, and a Kashmiri Pandit of Sheikh Abdullah's administration, D.P. Dhar who was in constant contact with the Sadar-i-Riyasat, to get Sheikh Mohammad Abdullah removed from power

and induct Bakshi Ghulam Mohammad as Prime Minister of Jammu and Kashmir.

It was left to Bakshi to arrest Sheikh Abdullah and keep him in prison till 1964 (barring a brief spell of liberty between January and April 1958) on the alleged accusation of treasonable correspondence with foreign powers and to declare that Kashmir was a permanent part of India and "no power on Earth can separate the two countries." Bakshi used a gang of ruffians, called Peace-Brigades to crush the innocent masses and inducted in his cabinet notorious communal Hindus and some muddle headed illiterate muslim politicians in order to fulfil the aspirations of his masters. He possessed no popular mandate and was selected by a vote of confidence in the India made Legislative Assembly. For all practical purpose "his party was the Srinagar branch of Jawahar Lal Nehru Congress" and his government was, what Mohan Krishan Teng rightly calls, "second Interm Government."²⁶ It was this interm Government and the self-made Constituent Assembly that confirmed in February 1954, the legality of State's accession to India and by 1956 it had framed a constitution for the State which came formally in operation on 26 January 1957. It declared that "the State of Jammu and Kashmir is and shall be an integral part of the Indian Union." Under the new Constitution the nominal elections were held in March 1957 and then in 1962. In India these elections have frequently been pointed to as popular confirmation of the accession of 1947, and they have been used by Indian leaders and diplomatists as an argument against the continuing demand of a plebiscite and right of self-determination by the people of Jammu and Kashmir since 1947. However, the Indian leaders themselves know that these elections were fake and the people of Jammu and Kashmir have never been allowed to express themselves freely during the last 45 years. The universal adult suffrage and the concept of secret ballot is unknown to Kashmiris. Besides, India's stand that the Assembly has

ratified the accession and the people's representatives have given their consent in favour of India becomes totally unacceptable even on the basis of the UN Security Resolution, dated 24 January 1957, which states "... Any action that Assembly may have taken or might take to determine the future shape and affiliation of the entire State or any part thereof, or action by the persons concerned in support of any such action by the Assembly, would not constitute a disposition of the State in accordance with the above principles" (the principles refer to the resolutions of Security Council and UNCIP according to which the people alone will decide their future through a fair and unfettered plebiscite).²⁷

Without paying any attention towards the Security Council resolution, the Government of India used the self-made Constituent Assembly, as well as the self-styled leaders, to integrate the State with the Indian Union and reduce it to the status of any other state within this Union. For example, during G.M. Sadiq's regime there was a revival of Bakshi's proposal for the direct election of Kashmiri representatives in the Lok Sabha, the Lower House of the Indian Parliament. Moreover, there was a wide discussion of the possibility of extending to the State of Jammu and Kashmir provisions of Article 356 and 357 of the Indian Constitution, the force of which had hitherto been excluded by Article 370. After these articles were extended on to the State, it became easy for the Government of India to change the designation of the Sadar-i-Riyasat and the Prime Minister into Governor and Chief Minister, to institute Indian Presidential rule in the State, and to impose Indian legislation without prior approval by the State legislature. These articles were ruthlessly exploited by Indian rulers to subjugate and silence the people of Jammu and Kashmir and crush those freedom-loving people who, from time to time, reminded them to fulfil their promise of granting the people of the State the right of self-determination. The Indian leaders did not care to

win the sweet will of the Kashmiri masses but utilised the services of unscrupulous, self-seeking and power hungry politicians of Kashmir like Sheikh Abdullah, Farooq Abdullah, G.M. Shah, Bakshi Ghulam Mohammad, Gh. Mohammad Sadiq, Sayeed Mir Qasim, Mufti Sayeed, D.P. Dhar, G.R. Kar, Prem Nath Dogra, S.L. Saraf and others to lend legitimacy to their illegal occupation of Jammu and Kashmir. As a result of this fraudulent policy, there has been very frequently mass unrest in the State of Jammu and Kashmir since 1947 itself, in the form of protests and demonstrations, wherein the innocent freedom loving Kashmiris have expressed their resentment against alien domination. The present upsurge of militancy is only a culmination of the freedom struggle that started long before 1947 and it is also an indication that even after 46 years the people of Jammu and Kashmir have not reconciled themselves to foreign rule and have not given-up their struggle to fight for the right of self-determination.

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CHAPTER II

MAKING OF A POLITICAL LEADER

*That age is best which is the first,
When youth and blood are warmer.*

—Robert Herrick

Shabir Ahmad Shah, popularly known as Shabir Shah, was born at Kadipora, Anantnag (called in the Valley of Kashmir, Islamabad), on 3 January 1952, just three months after Sheikh Mohammad Abdullah requested Maharaja Hari Singh to convene Jammu and Kashmir Assembly and six months before the notorious Delhi Agreement took place between Sheikh Abdullah and Pandit Nehru.¹ Who could have imagined that this lad of middle class business family will continue to struggle for the right of self-determination for the people of Jammu and Kashmir at a time when even a leader of Sheikh Abdullah's stature will succumb to the intrigues of Indian politicians. Who could have believed that when the President of Plebiscite Front, Mirza Mohammad Afzal Beg, incidentally belonging to the same locality in which Shabir Shah was born, would describe his party's 22 years struggle for the right of self-determination as "a vagrancy and wastage of time",² Shabir Shah will continue to fight for the freedom struggle and become the hope of millions of Kashmiris. Who could guess that Shabir, who very often left school, neglected his studies and in the process invited wrath of his elders and the indignation of teachers would get the recognition all over the world and be declared as "a Prisoner of Conscience". Who could foresee that a time would come when in the lanes and streets, villages and towns, Colleges and Schools the people of Kashmir would raise slogans like "Shabir

Shah—Shahan Shah” in order to eulogize their beloved leader and demand his release. Since all these things happened, it is very interesting, as well as challenging, to discuss those events and personalities that played a vital role in making Shabir Shah a political leader as well as ‘a man of conscience’.

In order to analyse all these vital factors it is very necessary to go back to 9 August 1953, when Sheikh Mohammad Abdullah, was thrown out of power, mainly because he declared that the State Constituent Assembly has power to continue or revoke the accession with India.³ The arrest of Sheikh Abdullah, Mirza Afzal Beg and their allies on 9 August 1953 gave rise to massive protests and demonstrations through out the State. During these demonstrations more than 2500 people were killed in police violence as they fired at indiscriminately at the mob who were giving vent to their resentment against the violation of democratic norms in the State, which was ultimately going to prove as a prologue to the high-handedness of the Indian authorities in Jammu and Kashmir. However, these protests did not pose any threat to Bakshi’s administration because of his pragmatic approach and also due to the lack of leadership in the absence of Sheikh Abdullah, who was in detention. Bakshi organised a gang of ruffians, called ironically ‘Peace Brigades’ and established their units in each and every locality. These band of lawless people were delegated all powers to crush the innocent and freedom-loving Kashmiris and they not only enjoyed the liberty in their licentiousness and crookedness but also were blessed with all amenities for letting loose a reign of terror in their respective localities. Bakshi also upgraded a police official Ghulam Qadir Ganderbali, whose only merit was the ruthlessness and brutality which he used against every freedom loving and educated person of Kashmir.⁴ The general masses, on the other hand, were duped by food subsidies, free primary education and the Government lones—though the major benefits of these

were enjoyed by few families—which the simple minded and poor Kashmiris accepted at the cost of their freedom. They hardly knew that they are being resold by Bakshi to India for these petty gains and benefits, whereas the leaders who could have made them realize Bakshi's intrigues were put behind bars.

On 8 January 1958, just after a few months when Bakshi Assembly ratified the accession, which was challenged by Pakistan and by the UN Security Council resolution dated 24 January 1957, Sheikh Mohammad Abdullah was released. He not only challenged the authenticity and validity of the Assembly's resolution of State's accession with India but also demanded the right of self-determination for the people of Jammu and Kashmir. In large public gatherings and congregations held throughout the Valley, he challenged the Indian occupancy of Kashmir and asserted that the accession was merely conditional. He, in his usual emotional tone, reminded the people of his long imprisonments during the Dogra regime and the way he was led down by his associates like Bakshi, Sadiq, Qasim, D.P. Dhar and others. It was enough to provoke Kashmiris against Indian dominancy in Kashmir and to revitalize the freedom struggle. The moment Bakshi and his advisors, notably B.N. Malik and D.P. Dhar, realized the immense mass support extended to Sheikh Abdullah's demand for the right of self-determination for the people of Jammu and Kashmir, they re-arrested him on 29/30 April 1958 under the Preventive Detention Act—an act that has been persistently used against all political leaders of Kashmir once they talked of the right of self-determination. In due course Sheikh Abdullah was charged with conspiracy, "a fabrication of blatant and invented stories".⁵ The trial came to an end when he was discharged by a special court, alongwith 14 other defendants, in April 1964 just to suppress the mass upsurge against Indian rule in Kashmir caused due to the theft of the Moe-i-Muqaddas—the Sacred hair of Prophet Mohammad (PBUH).

No doubt the Indian leaders succeeded in detaining Sheikh Abdullah and his associate Mirza Afzal Beg so as to legalize their presence in the State of Jammu and Kashmir but they could not silence the people demanding their right of self-determination. Even when Sheikh Abdullah and his associates were under detention the people formed Jammu and Kashmir Plebiscite Front under the Presidentship of Munshi Mohammad Ishaq (who was subsequently replaced by Mirza Mohd Afzal Beg) which continued to strive for freedom even when its leaders were in prison. During these days the centre of political activity was not only Srinagar but also Baramulla and Anantnag, the latter mainly for being the native town of Sheikh's close associate Mirza Mohd Afzal Beg. Just at 200 metres distance from Beg's house at Sarnal Anantnag is the ancestral house of Shabir Shah. It is in a small locality called Muhallah Kadipora which is inhabited mostly by Gabba makers and crewl embroiders. The trade has virtually become such an integral part of their culture and tradition that even the educated youth of every creed, colour and caste do not want to dispense with it, in spite of having Government jobs. Besides giving them economic stability, their interest in trade has enabled the residents of this Muhallah to think independently and act freely at times when the Government employees in Jammu and Kashmir have been subjected to various political and economic pressures. However, it hardly implies that they are either anti-national elements or rebels as the freedom loving Kashmiris have been allegedly labelled by the Indian Government and its agents, though their deep interest in the freedom struggle of Jammu and Kashmir can hardly be underestimated. In fact, the political awareness is deep rooted in the entire Anantnag town and its people have played a vital role in freedom struggle of Jammu and Kashmir through the well known personalities in the contemporary political scenario of Kashmir like Mirza Mohd. Afzal Beg, Pyare Lal Handoo, Ghulam Rasool

Kochak, Dr. Abdul Majeed Sheikh, Dr. Qazi Nisar Ahmad, Mohammad Sayeed Shah and many others.

In Anantnag town the name of Abdul Gani Shah, grandfather of Shabir Shah and the proprietor of "Khwaja Gani Shah and Sons" is still held in great esteem, particularly amongst those artisans who earn their bread and butter by Gabba making and cut work. The main reason being that he introduced these crafts in the Anantnag town and its suburbs during the Dogra regime when the majority of Muslim population in the entire state was living a life of poverty and oppression. He is believed to have earned a gold medal during the reign of Maharaja Hari Singh for developing arts and crafts in District Anantnag. It is one of the main reason of his persuading his children, particularly his second son Ghulam Mohammad Shah, to develop the ancestral business rather than to hunt for the Government job, once he returned home after his graduation from Lahore University in 1940. No doubt the meagre salary given to the muslim employees in the Dogra regime was primarily responsible for Mr. Shah's aversion to the Government jobs, but his active involvement in the ongoing freedom struggle of Jammu and Kashmir also contributed in this decision making. He eagerly wanted his son to achieve the economic stability and participate in the freedom struggle without yielding to the Government pressure. In 1940s itself Ghulam Mohammad Shah was married to Habla Begum and the couple has three surviving children : Mohammad Sayeed Shah, Hassina Akhtar and Shabir Ahmad Shah.

Ghulam Mohammad Shah willingly accepted his father's advice as he himself was eager to participate in political activities, including the freedom struggle of Kashmir, launched by the National Conference and the Muslim Conference, though he along with Mohammad Ahsan Lulu and Mohammad Maqbool Wani favoured the policies of the latter. Even during his studies at Lahore he had actively participated in the relays and demonstrations of

All India Muslim League and Indian National Congress and heard the great political leaders of sub-continent like Mahatma Gandhi, Mohammad Ali Jinnah, Pandit Jawahar Lal Nehru and Abul Kalam Azad talking on the importance and utility of fighting for the freedom of ones mother land. These speeches had left a great impression upon his mind which gradually he transferred as a legacy to his children, particularly the youngest of them Shabir Ahmad Shah. Mr. Shah developed his father's business and ran a shop in the Government Central Market Srinagar, which gave him ample opportunity to watch minutely the political activities in Kashmir. For a pretty long time he also functioned as the President of Shopkeeper's Union, Government Central Market Srinagar and contributed largely to the development of Arts and Crafts of Kashmir. During these days he also shifted his family to Srinagar in order to educate his children in the most prestigious educational institutions at Srinagar like Burn Hall and Bisco School. However, in 1962 he had to close his shop, and wind up his business for ever, because of the large amount of depreciation which the Arts and Crafts of Kashmir, particularly Gabba making and Cut work, suffered during Sino-India War 1962. Besides, due to his deteriorating health he neither wanted to remain away from his family members, as his business demanded him to do, nor dared to shoulder the responsibilities and hardships involved in it. Consequently, in 1963 he joined the Government service as a social education officer in the Department of Rural Development and just after 13 years retired as a Block Education Officer. After his retirement he again started his small business in his home town Anantnag and continued with it till his death in the police custody on 4 April 1989.

Right from his infancy Shabir exhibited certain traits in his character which made him different from an average child. He is believed to have uttered not even a single word till he was three but communicated through sounds and

signs. It became a matter of grave concern for the entire family who took him to various physicians and children specialist doctors. However, doctors could not cure him as they failed to diagnose any apparent defect in Shabir Shah. Considering it a problem of grave concern, the parents of Shabir, following the age old tradition of Kashmir, which is still prevalent in some families here, took him to a Saint, Ghulam Mohammad of Bandipor, who, according to Shabir Shah's mother, used to visit frequently to Shabir's relatives in Anantnag.⁶ This saint is believed to have whispered something in Shabir Shah's ears after which he started uttering some sounds ; and within a period of one year he began to communicate in his mother tongue. Probably, it was this early trait in his character that left a deep impression upon his political career. He neither delivered emotional public speeches—except once in Anantnag—nor believed in propaganda, pomp and show. Generally, he talks less even in the party meetings and press conferences though whatever he says is always appealing and thought provoking.

During the days Shabir Shah's father was at Srinagar, his uncle, Mohammad Shafi Shah, whom Shabir's parents always considered as their eldest son (and imbibed the same feeling in their children) admitted Shabir in the Government Middle School Sarnal, a suburb of Anantnag Town, famous for being the residence of Mirza Mohammad Afzal Beg. Simultaneously, he also made arrangements for his religious education particularly the 'recitation' of the Holy Quran. He was taught the recitation of the Holy Quran by a widow of the same locality, namely Saja Begum, whose dedication, patience and affectionate behaviour left a great impression upon his mind. "Whenever he was released from jail and lived the life of a free individual, (though during the last 25 years these days were very few) he always visited Saja Begum and got a sort of spiritual solace," stated Shabir Shah's mother. Shabir Shah still recollects his childhood days when he,

alongwith the children of his locality used to get up early in the morning to learn the Holy Quran and subsequently, alongwith the children of his locality used to walk 200 metres to attend Government Middle School Sarnal.

Just after a year of his schooling at Anantnag, Shabir had to leave Anantnag as the entire family shifted to Srinagar to join Ghulam Mohammad Shah who, as stated earlier, was doing his business at the Central Market Srinagar. The immediate cause of this shifting, however, was that Mr. Mohammad Shafi who was looking after the family, had to join a training course at Srinagar. Consequently, Mr. Shah did not think it feasible to leave Shabir's mother, his brother Mohammad Sayeed and sister Hassina (both of them were studying) at Anantnag. At Srinagar Shabir was admitted in the most prestigious educational institution of the Valley, Tyndal Bisco School Srinagar, but, due to the dislocation, he was not happy here. Besides, it was very difficult for a child of 6 + to adjust in new atmosphere and mix up with unknown children. Consequently, he very often ran away from the school and sat quietly in some lonely place, pondering over on some vital problems and issues, as it seemed to his parents and relatives. Presuming that he found it difficult to keep pace with the high academic standards of Bisco School, his father shifted him to D.A.V. School Srinagar where he comparatively found himself at ease, though the sense of alienation persisted as did his absconding himself from school. However, Shabir had his schooling at Srinagar upto 1962 only, after which his father went back to Anantnag and took his family alongwith him. In fact, due to the immediate adverse effect of Sino-India war on the Arts and Crafts of Kashmir, Ghulam Mohammad Shah closed his business at Srinagar.

Back in Anantnag, Shabir Shah was admitted again in Government Middle School Sarnal, where from he had started his academic career in 1958. In the familiar atmosphere at School, Shabir very eagerly began to devote

his time to studies. However, at home he continued to be a problematic child and indulged in such activities as are not expected of a ten year old child. He became very adamant and fond of living a rough and tough life which his parents did not like. Most often he would receive beating from his uncle Mohammad Shafi and his brother Mohammad Sayeed for his untoward behaviour like walking bare-footed in the heat of summer, sleeping on naked floor, and fasting for days together.

When Shabir Shah reached home the political scenario of the State of Jammu and Kashmir as well as of the entire sub-continent was beginning to show some unexpected, yet very vital, changes. Due to Sino-India War in 1962, India, in consultation with USA and UK, decided a reapproachment with Pakistan on Kashmir and in a joint communique in 1962 declared: "The President of Pakistan and the Prime Minister of India have agreed that a renewed effort should be made to resolve the outstanding differences, between their countries, on Kashmir."⁷ Between December 1962 and May 1963 five rounds of talks were held between the foreign ministers of two countries — Zulfikar Ali Bhutto and Sardar Swaran Singh — to find an amicable solution to the Kashmir problem which clearly indicates that India had virtually accepted the UN Resolution 1957 that the State Assembly of Jammu and Kashmir had no legal or mandatory powers to discuss State's accession with India. However, the subsequent events reveal that it was one of those cunning devices used by Pandit Jawahar Lal Nehru to keep Pakistani leadership in dark at a time when the Kashmir problem attracted the attention of the International Community. At home the reign of Bakshi ended on 4 October 1963 due to Kamraj Plan, "an eccentric measure", as Lamb calls it,⁸ devised by Nehru to get rid of his opposition within the Congress Party. After Bakshi's resignation Khwaja Shams-ud-Din of Anantnag became the new Prime Minister of Jammu and Kashmir. Mr. Shams-ud-Din remained in office for

ninety days only and was forced to resign soon after the theft of the Moe-i-Muqaddas, a sacred relic of Prophet Mohammad (BPUH) from the Hazratbal Shrine, Srinagar on 26 December 1963 which gave rise to an expression of intense public indignation throughout the Valley. Even in Pakistan there were demonstrations in protest against this crime. However, when the intensity of public resentment increased and began to give rise to mass rebellion, the Relic was mysteriously replaced on 3 January 1964.

The theft of the Moe-i-Muqaddas, hair of Prophet Mohammad (BPUH) from the Hazratbal Shrine Srinagar on 26 December 1963 and its mysterious return on 3 January 1964, though still a mystery, gave altogether a different turn to Kashmir problem. Nehru, who wanted Bakshi Ghulam Mohammad to go, as he was verily an obstacle to any Indo-Pak reapproachment, had made him to resign under the Kamraj Plan of August 1963 in order to bring to power G.M. Sadiq. Since Bakshi too was a shrewd politician he inducted Khwaja Shams-ud-Din, who by no stretch of imagination was a political man, as Prime Minister against the wishes of Nehru and other Indian leaders which ultimately gave rise to the incident of the Moe-i-Muqaddas. Whereas the Indian leaders, with the help of B.N. Malik, D.P. Dhar and others exploited this opportunity for dethroning Shams-ud-Din and inducting into power G.M. Sadiq, who helped them in, virtually, integrating the State with Indian Union, the local politicians and the Government of Pakistan exploited it for a different purpose. The incident gave rise to a massive demonstration and expression of intense public indignation in the State and all the opposition parties in the Valley formed a coalition in the form of Action Committee which abruptly established its branches all over the Valley. The newly established organisation, which was initially dedicated to the investigation of the cause of the loss of the Holy Relic and its rapid recovery, turned out immediately into a mass upsurge against Indian dominancy in the State and began

to struggle for the right of self-determination. All the Kashmiri people, including men, women and school children came out on the roads to express their resentment against the covetuous attitude of Indian leaders and their puppet administration in the State. To the Muslim majority the event of the Moe-i-Muqaddas gave the feeling that they could never be safe in India unless they sacrifice their Islamic covenants which they were never prepared to do. Hence the stage for rebellion started burning like lava of a volcano in the minds of Muslims whereas some non-muslims of Jammu and Ladakh regions were bent upon doing anything to harm the prosperity and happiness of Kashmiri Muslims, though both these areas were mere parachhoots upon the Valley of Kashmir.⁹ In fact, the origin of the present militancy too can be traced back to the event of the Moe-i-Muqaddas because when the Government of India brought into power the socialists like G.M. Sadiq and D.P. Dhar, the religious minded persons too began to unite against the secular forces. Once the Government of India realized the dire consequences of their grave mistake they released Sheikh Mohammad Abdullah and his 14 defendants in April 1964, bringing thereby an end to a conspiracy trial against him, which had been continuing since October 1958. Soon after the Sheikh was released, he split the Action Committee reviving the old rivalry between the two fractions ; one representing the policy of Sheikh Abdullah and the Plebiscite Front ; and other representing Moulvi Mahammad Farooq and the Awami Action Committee.

Shabir Shah's political activities virtually began in 1964 when he too led the tiny school children to join the mass demonstrations organised by the Action Committee. He still recollects the days when he and his friends used to shout slogans like "Asli Mujrim Ko Peish Karo" (identify the real culprit) and "Hum Kya Chahtei Azadi" (we want freedom), alongwith thousands of Kashmiris, in lanes and streets and in villages and towns. The entire Muslim population of the State, as well as the Kashmiri Pandits,

were virtually shaken by this intrigue and felt as if they had lost everything. During these days Shabir, at the age of 12 only, is believed to have learnt from his father the true nature of the Kashmir Problem and the whole chain of events and incidents that deprived the people of Kashmir from the pleasures of becoming the free citizens of an independent State. While narrating these events, he said in an interview to Naeem Khan "my father often used to weep and in the process I too joined him. The effect on my mind was such that during the day I used to collect the small children of my locality and recite before them what my father used to tell me during the evenings and late night hours."

In April 1964 Sheikh Abdullah held discussions with Nehru and several other leaders of the Government of India and in May he visited Pakistan where he met its President General Ayub Khan. It is believed that the whole mission was planned by Nehru, who wanted to settle the Kashmir dispute for ever, after realizing that Indian hold over the State could not remain very long. However, Nehru's death on 27 May 1964 brought back Sheikh Abdullah without achieving anything substantial because General Ayub Khan outrightly rejected his proposal of confederation.¹⁰ In 1964 various other political leaders of Jammu and Kashmir started the civil disobedience movement in the Valley and did social boycott with Congress leaders at the behest of Sheikh Mohammad Abdullah who denounced the State Congress Party as a gang of devils and kafirs (infidels). While the civil disobedience movement was on, Sheikh Abdullah and Mirza Mohammad Afzal Beg left for the pilgrimage to Mecca which gave them an ample opportunity to attend the Afro-Asian Conference, in Algiers, where they had brief discussion with Choe-En-Lai, the Chinese Prime Minister. The Government of India cancelled their passport and on their arrival at New Delhi Airport (on 3 May 1965) arrested them, and flew them to Ootacamund in the Nilgiri Hills. The reaction in Kashmir

was demonstrations and fresh enthusiasm in the already existing campaign of civil disobedience.

From the event of the Moe-i-Muqaddas, followed immediately by the Hindu demonstrations of protest in Jammu for an alleged theft of two images from a Hindu temple, it was apparent to Muslims that they could be never happy in India. They gave tremendous support to the non-violent civil disobedience campaign launched by the Plebiscite Front and Awami Action Committee for Sheikh Mohammad Abdullah's release. Such mass uprising prompted the people of Poonch district to instigate an armed struggle against India with help from Azad Kashmir side of the cease-fire line and convinced Z.A. Bhutto and other Pakistani leaders that the State of Jammu and Kashmir was ripe for revolt. Accordingly, a group within the Pakistani Government was persuaded by political leaders of Azad Kashmir to send trained guerillas into Indian controlled territory of Jammu and Kashmir who would provide both the inspiration and the professional nucleus for a general Kashmiri uprising. The entire planning, called Operation Gibraltar, was meant to force Indian leaders to abandon their position and enter into a dialogue with Pakistan, in order to settle the Kashmir Problem forever. However, the whole operation failed because the political leaders of Kashmir were not prepared to rise up in armed rebellion and, more so, there was no secrecy maintained, which made it easy for Indian intelligence to nab some of them and force others to leave the State. The operation reached its climax on first September 1965 when Azad Kashmir troops with Pakistani Regular units attempted to cut the main Indian line of communication along the road from Pathankot through Jammu to Srinagar. By 5 September the Pakistani forces had captured Juri and were almost in Akhnur, 20 miles away from Jammu, when on 6 September India launched counter attack on Lahore and another attack in the direction of Sialkot, and still on 8 September an attack from Rajasthan towards Sindh in Pakistan.¹¹ However, the war came to an

end when both India and Pakistan failed to accomplish their aims and were subsequently forced to declare cease-fire through a UN resolution, dated 20 September, which demanded "a cease fire should take effect on Wednesday 22 September 1965, at 0700 hours GMT". Since for the first time the Security Council had demanded India and Pakistan to do some thing, they agreed to stop fighting and the war came to a halt at 3.30 a.m. Indian time on 23 September 1965.

Though the war and the mutual hostility between India and Pakistan immediately subsided due to the Taskent Declaration of 10 January 1966, which did not deal with the Kashmir issue at all, Pakistan succeeded in keeping the issue alive through UN resolution—though India seemed to have closed it forever. However, the war brought about profound changes in the political situation of Jammu and Kashmir and changed the tone of Indo-Pakistan dispute as well as of the freedom struggle in Jammu and Kashmir. In October 1965 the Valley witnessed massive public demonstrations in favour of holding of a plebiscite to decide the future of Jammu and Kashmir. There was considerable student participation in these demonstration. These demonstrations were also important in the sense that for the first time the Valley witnessed the emergence of student leadership in the absence of the conventional leaders like Sheikh Abdullah, Mirza Afzal Beg, Mohammad Sayeed Masoodi and Molvi Mohammad Farooq who were placed under detention in order to give Sadiq regime an ample opportunity to resort to massive rigging in the 1967 elections. The student leaders who took leading part in these demonstrations were Abdul Rashid Kabli, Nazir Ahmad Wani, Nazir Ahmad Shah, Mohd. Shafi Sheikh, Farooq Ahmad, Abdul Rashid Shaheen, Fazl-ul-Haq Qureshi, Ghulam Mohd Sheikh, Salim Anwar Dar, Eijaz Rasool, Mian Sarwar, Bashir Ahmad Kichloo, Iqbal Shahmiri, Javeed Ahmad, Azam Inquallabi etc. In fact, these students and youth activists had already established

Jammu and Kashmir Youth League in 1963-64 under the instructions of the leaders like Sheikh Abdullah, Mirza Mohd Afzal Beg and Molvi Mohd Farooq. They played a vital role in organising the public demonstrations during the incident of the Moe-i-Muqaddas, as well as during the civil disobedience movement launched by the Action Committee for Sheikh Abdullah's release. Even in 1965 war, most of them helped the Pak-guerillas in Kashmir, when the senior leaders avoided them due to their cowardliness, as well as hidden motives, which became public in the years to come. In October 1965, more than hundred students (belonging to Red Kashmir and similar other organisation) and Youth League activists were arrested by the government and were subjected to torture in various interrogation centres. Shabir Shah too, as will be discussed in the next chapter, started his political career as a Youth League activist and continued to struggle for the right of self-determination even when some of its leaders and founding fathers abandoned this noble cause for petty gains and selfish ends.

Shabir Shah, in his childhood, saw all these changes in the political scenario of Jammu and Kashmir. Most often he left school in order to join the demonstrations organised by various political parties and youth leaders against the atrocities committed by the local police, as well as by Indian Security Forces, in Kashmir. At this young age he performed merely the role of a runner for distributing posters and pamphlets of various parties, which were struggling for the right of self-determination. When the leaders of Youth League, like Fazal Haq, Azam Inqillabi and others, noticed his enthusiasm, dedication and maturity of thought, they not only patronized and loved him but also encouraged him to take part in the on-going political activities. However, his indulging in political activities at the cost of studies became a grave concern for his elder brother and parents who not only persuaded him to continue his studies but also used force to dissuade him from

indulging in political activities. One day his uncle, Mohammad Shafi beat him mercilessly causing a minor fracture to his arm, but Shabir did not yield to his pressure and continued his political activities. He even compelled his parents to give him a separate room wherein he could hide all the confidential and indemonstrable papers of various political parties. By doing this, he escaped from the hard vigil of his parents, who did not want him to fix posters during the late night hours. In fact, it is stated that his mother had to spend sleepless nights to stop Shabir Shah from running away during the nights to attend party meetings and perform the duties assigned to him by the students and Youth League activists. All these pressures could not dissuade him from participating in the on-going freedom movement.

In addition to these political events, there developed in the Valley communal riots in 1967 when a Hindu girl, Parmeshwari, fell in love with an employee of departmental stores, Ghulam Rasool Kanth. She embraced Islam and married Mr. Kanth, which led to protests and demonstrations by Kashmiri Hindus who proclaimed that the girl was forced to change her religion. They demanded that the girl be handed over to her mother and were vociferously supported not only by the Hindu leaders at the Centre but also by Hindu communal organisation in the State like R.S.S. Mr. V.P. Singh (then Home Minister of India), Balraj Madhok, President R.S.S., and even Y.B. Chavan came to support the newly made Hindu Action Committee which provoked the Muslims, who till then were neither interested in the incident nor had any sympathy for such events, which were not new in the Valley. However, when the Muslim shops and hotels in Jammu were looted by the Hindu demonstrators and the shops of Muslims at Karan Nagar, Srinagar, were burnt by Kashmiri Hindus while carrying a dead body to crematory, the Muslims reacted very sharply, which caused a law and order problem for the Sadiq Government. Though the Government could

not stop Parmeshwari from becoming Parveena Akhter, wife of Ghulam Rasool Kanth, it pressurized Sadiq Government to appoint a commission under the chairmanship of a retired Chief Justice of Supreme Court, Gajenderagadkar, in order to inquire into the grievance of Kashmiri Hindus and the Dogras of Jammu.

Soon after this event Anantnag district, which had witnessed the large scale demonstrations and communal clashes, became the centre of political activities in 1967-68. On 2 October 1967 Jammu and Kashmir plebiscite Front organised a massive Convention of the party in Sarnal—Anantnag, a few hundred yards away from Shabir Shah's residence, under the chairmanship of the Party President Mirza Mohd Afzal Beg. In his presidential address Mr. Beg analysed the tortures and hardships inflicted upon the people of Jammu and Kashmir by the Indian Government, since 1947, mainly for demanding the right of self-determination. He reiterated his party's faith that the accession of Jammu and Kashmir with India is provisional and subject to rectification by the people through a free and impartial plebiscite, under the aegis of the United Nations. He praised the people as a whole and the youth in particular for sacrificing their precious lives for this noble and pious cause. He also appealed and persuaded the people to struggle for the right of self-determination so long as their motherland is not liberated from the alien rule.

Mirza Mohd Afzal Beg's emotional speech, and the way he narrated the victimization of Muslims in the State of Jammu and Kashmir since 1947, prompted the youth to join the freedom struggle of Kashmir. Thousands of students, young workers and youth raised anti-Indian and pro-independence slogans which were followed by violent protests and demonstrations throughout the Valley. Some of the freedom loving Youth League activists like Abdul Rashid Dar, Nazir Ahmad Shah, Nazir Ahmad Wani, Ghulam Rasool Zehgeer, Azam Inqillabi, Farooq Ahmad

and Fazal Haq Qureshi mobilized the youth to struggle for the right of self-determination. They also got immense support from the followers of Molvi Mohd Farooq like Abdul Rashid Kabli, Anwar Ashai, Farooq Shams, Bashir Ahmad Wani, G.M. Khan, Salim Anwar Dar and others, in persuading a large number of students to join the on-going freedom struggle. The major moral support was, however, from Molvi Mohd Farooq who in State People Convention, held on 10—15 October 1968, gave a detailed presidential address in which he exposed the high-handedness of the Indian administration in Jammu and Kashmir. He openly criticized the Government of India for not fulfilling its promises to give the people of Kashmir their right of self-determination. He concluded his lecture by saying “to call the rigged elections as a substitute for plebiscite or referendum is shameful, and it is our duty to oppose such elections. If these elections are not treated as a substitute for plebiscite but merely a convenient way of local administration, then there is no harm in participating in them. We believe in democracy and implore that the Kashmir issue be settled through democratic means *i.e.* by a free and impartial plebiscite.”¹²

All these events and incidents played a vital part in making Shabir Shah a political activist. When all the front line leadership of the Plebiscite Front, as well as a number of Youth League activists, succumbed to the pressures of the Government, Shabir Shah continued to struggle for the right of self-determination through peaceful means. He had to face all kinds of tortures, imprisonments and interrogations for fighting for this noble and pious cause.

NOTES AND REFERENCES

1. Most of the essays and articles, as well as the reports by various Human Rights Organisations, discussing Shabir Shah's life, have indicated 14 June 1954 as his date of birth. However, in the School records as well as in the records of Jammu and Kashmir State Board of

School Education, his date of birth is shown as 3 January 1952.

2. Mirza Afzal Beg stated these words in J & K State legislative Assembly in 1976 (Summer Session) while answering a question of Sayeed Ali Shah Geelani, leader of the Jamaat-i-Islami, in the House.
3. For details see S. Gupta, *Kashmir : A Study in India-Pakistan Relations* (New Delhi 1966) PP. 50—70 ; Pampori, *Kashmir in Chains* (Srinagar 1992) PP. 360—77.
4. Shabnam Qayoom, *Kashmir Ka Siyasi Inqillab* (Urdu) (Srinagar, Kashmir Book Depot 1992)
5. B.N. Mullik, *My Years with Nehru* (New Delhi 1971), PP. 279—313.
6. When I started writing this book Shabir Shah's father, Ghulam Mohammad Shah was already dead. I had to rely, therefore, mainly upon the information given by his mother, Smt. Habla Begum, his sister, Mrs. Hassina Da'ood, and his brother Mr. Mohammad Sayeed Shah (Ex. M.L.A. Anantnag Constituency).
7. See Alastair Lamb, PP. 201—206.
8. *Ibid*, P. 204
9. Ironically enough, when Moe-i-Muqaddas was stolen and the agitation was on in the Valley of Kashmir, there started a similar agitation in Jammu against the theft of two statues from a temple. The entire thing was fabricated to sabotage the genuine demand of Kashmiri Muslims.
10. For details see Alastair Lamb PP. 201—9 See also M. Ayub Khan, *Friends Not Masters : A Political Biography* (London, 1967) P. 240—45.
11. Alastair Lamb PP. 204—5.
12. Cited by Shabnam Qayoom Vol IV. PP. 244—46.



CHAPTER III

JAIL BIRD

*But to natures of the noblest frame
These toils and dangers please ;
And they take comfort in the same
As much as you in ease.*

—Samuel Daniel—

The political career of Shabir Shah began in 1968 when, at the age of sixteen, he shouted anti-Indian and pro-independence slogans in a demonstration organised by Youth League, in Jammu and Kashmir, against the corruption, nepotism and high-handedness of State Administration. Such demonstrations were widely organised throughout the State (by Youth League activists) in order to challenge the Indian policy of imposing colonial rule in Jammu and Kashmir which, as discussed in the previous chapter, had reached to its climax with the theft of the Moe-i-Muqaddas on 26 December 1963. The immediate stimulus to these energetic freedom loving youth, however, was the speech of Sheikh Mohammed Abdullah in Jammu and Kashmir State Peoples Convention, organised in Srinagar in October 1968, in which he reiterated his call for plebiscite and directed the youth to stand united in fighting for the right of self-determination. No doubt Shabir Shah was in his teens and hardly capable of playing any vital role except that of a runner, however, shouting anti-Indian slogans and distributing pamphlets and posters in support of the right of self-determination for Kashmiris itself was the beginning of a herculean task which he was going to perform in the years to come. He was arrested by the local police and severely beaten in the police lock-up for a period of three months.

When he was released in 1969 the political scenario in Jammu and Kashmir had began to change and the leaders of the plebiscite Front, particularly Sheikh Mohammad Abdullah and Mirza Afzal Beg had began to rethink on their stand on Kashmir Problem. In May 1969, for example, Sheikh Abdullah announced that the Plebiscite Front would enter once more the electoral fray in Jammu and Kashmir. The participation of the Plebiscite Front in Panchayat elections in August 1969, in which they enjoyed immense public support, though the results went against them due to high handedness of Sadiq regime, led the most of Youth League activists suspect, though very rightly, that Sheikh Abdullah neither bothered for Kashmiris nor their right of self-determination. His only ambition, as attested by the Beg-Parthasarthy Accord (1976), was to regain the power that had been snatched away from him. Apparently, on his return to Srinagar on 4 March 1970, he addressed the people, who carried him in a huge procession to Mujahid Manzil, in the following words : "Let me assure all of you that I stick firm to my principles. I and my associates will fight for the cause and dignity of our people till death". After reminding people of his long imprisonments, for the freedom struggle of Kashmir, he warned them against the Indian leaders and their agents in Kashmir who were spreading the rumours that Sheikh Mohammad Abdullah had arrived at a consensus with Mrs. Indira Gandhi regarding the Kashmir Problem. However, the rumours were immediately confirmed when in the same evening he met his close associates and revealed that after pondering over the whole situation, he had arrived at a conclusion to change the name of Plebiscite Front, an idea to which Mirza Mohammad Afzal Beg and other senior members of the party did not subscribe. Subsequently, it was decided in the party executive to organise State Peoples Convention at Srinagar in order to debate the entire issue and arrive at some general consensus. The Convention was held on 8—13 June 1970 and was attended

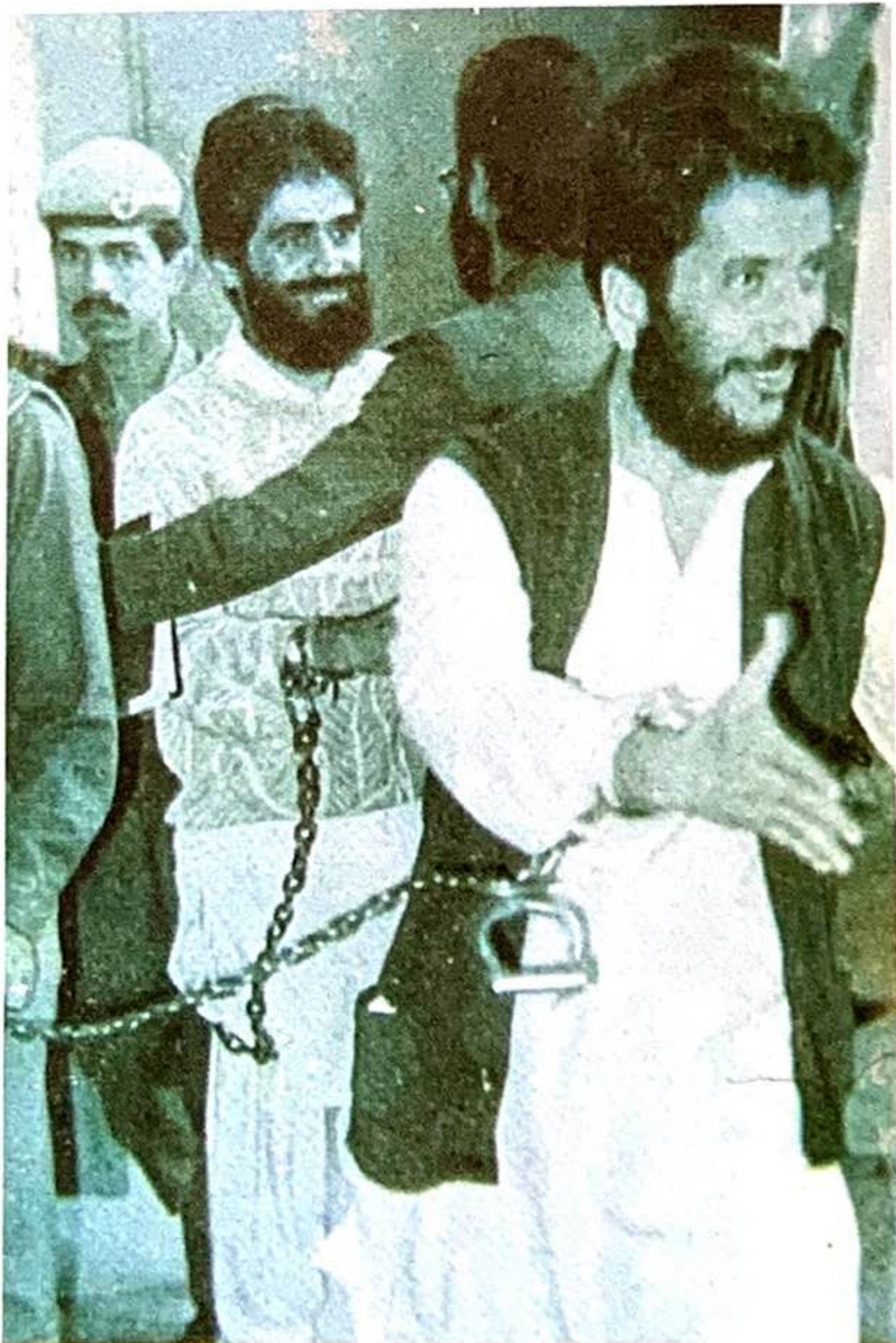
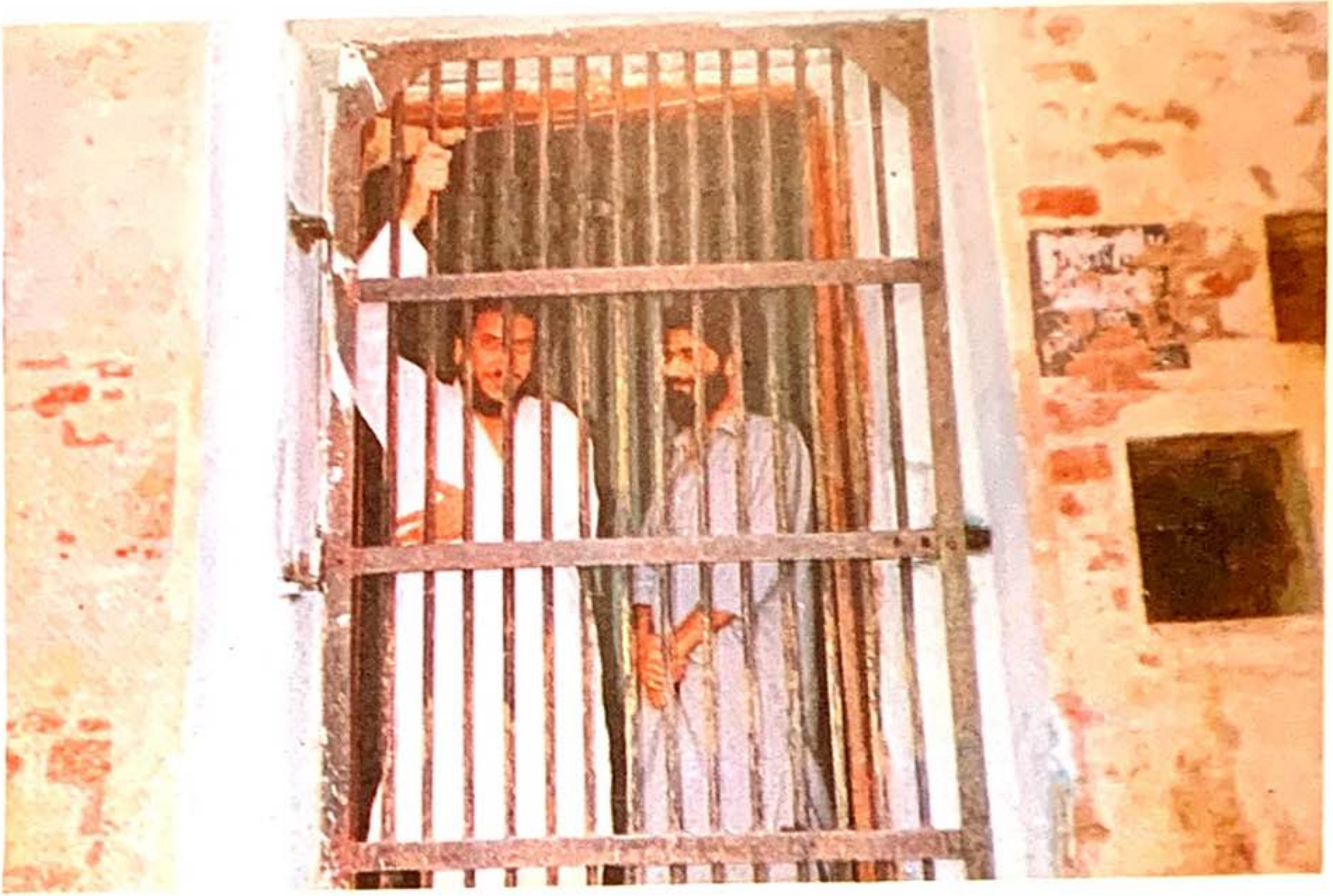
by two hundred delegates from all over the country ; the Indian Government did not allow the delegates from Pakistan and Azad Kashmir to participate in it. Among the local leaders Bakshi Ghulam Mohammad, Ghulam Mohiud-Din Kara, Abbas Hussain Ansari, Shamim Ahmad Shamim, Prem Nath Bazaz, Molvi Mohammad Farooq, Qari Saif-ud-Din and Balraj Puri attended the Convention in addition to the leaders of Plebiscite Front. The veteran Indian leader, Shri Jai Prakash Narayan had been specifically invited to deliver the inaugural speech and he was brought to Convention Hall at Mujahid Manzil, in a procession from Srinagar Airport. However, Shri J.P. Narayan, who till then had been supporting the demand of self-determination for the people of Jammu and Kashmir, disappointed the people when he said "I had been supporting the demand of Kashmiris for their right of self-determination and honoured sacrifices they had to give under the leadership of Sheikh Mohammad Abdullah. However, after 1965 war the situation has entirely changed and now the solution of Kashmir Problem lies within the constitution of India." In the next session of the Convention even Sheikh Mohammad Abdullah did not touch the demand for Plebiscite and the right of self-determination but stated that the main aim of organising the Convention was to solve the problems of poverty, illiteracy and backwardness of the people of Kashmir. However, the next day he declared in a Mass gathering at Hazuri Bagh Srinagar that "Self-determination is the basic right of a nation, freedom is not given but snatched". While reaching New Delhi Shri J.P. Narayan outrightly stated in a press conference, that "the leadership of Plebiscite Front has diverted from their cause and are going to enter in an agreement with the Government of India".¹ Mr. Munshi Mohammad Ishaq, a veteran leader of Plebiscite Front who did not like Sheikh's dual policy, was ousted from the party which gave rise to demonstrations and protests by students throughout the Valley. On the other hand, when the Youth League activists and other

freedom loving youngmen came to know about the logic behind organizing the State Peoples Convention, they too launched a protest against Sheikh Abdullah's changing attitude. They organised huge demonstrations and exhibited their resentment by raising slogans like "No Compromise", "Our demand Plebiscite", and "We want Freedom". Police resorted to Lathicharge and teargass shelling in order to disperse the violent demonstrators who were shouting slogans in support of the right of self-determination. The curfew was imposed for 24 hours in Srinagar city and other major towns, and more than 100 students were arrested. Shabir Shah too was actively involved not only in pasting the posters but also in organising these demonstrations in Anantnag town in collaboration with other Youth League activists like Nazir Ahmad, Abdul Rashid, Bashir Ahmad, Mohammad Sayeed and others.² He was arrested on 14-2-1970 alongwith other students and Youth League activists and interrogated at District Police Lines Anantnag for about seven months.

While Shabir Shah and others were still in prison the rivalry between Munshi Mohammad Ishaq and Sheikh Mohammad Abdullah resulted in division between the students and Youth League activists. The Youth League activists, having a blind faith in Sheikh Abdullah and his opportunistic policies bade farewell to the freedom struggle whereas those having firm conviction, faith and determination formed a new organisation, namely Youngmens League, in order to continue their struggle for the right of self-determination. The basic members of the League included Mushtaq Tabassum, Bashir Ahmad, Abdul Rashid Dar, Mohammad Yousuf Mir and Shabir Shah, though Shabir was already in prison when the organisation was formed. When the Indian Government and its Intelligence Agencies came to know about the intentions as well as the far reaching consequences of this organisation, they began to hunt for Youngmens League activists and arrested a number of them, whereas others went underground.

When Shabir Shah, about whom the administration presumed that seven months torture would be sufficient to crush his political aspirations and ambitions, was released in September 1970, he went to Anantnag. The first thing he did at Anantnag, his home town, was to clean the dust of the Youngmen's League Office at Mattan Chowk, in order to revitalize the party activities, rather than meet his friends and relatives. He not only organised the meetings of the League but also issued posters and handouts in which he explained his party's stand to struggle for the right of self-determination. This not only affected his studies and health but imposed upon him a life of hardships and anguish at an age when he ought to have been busy enjoying life.

These were the days when mass uprising in Bangladesh had started and the Government of India was sending their trained agents to support the rebels. Since a large number of Pakistani refugees were entering India, the Indian intervention in East Pakistan, in retaliation to 1965 war, was rightly envisaged. The enigmatic hijacking of an Indian Airline plane, a fokker Friendship (F-27) VT-DMM belonging to IAC and named 'Ganga', by Hashim Qureshi and Ashraf Qureshi, on 30 January 1971 at 13.05 hours, while it was enroute from Srinagar to Jammu, became a good pretext for the Government of India to declare on 4 February 1971 "Until the whole question of the hijacking of the "Ganga" is satisfactorily resolved, the Government of India have decided to suspend, with immediate effect, the overflight of all Pakistani aircraft, civil and military, over the territory of India".³ The Government of India used this incident as an excuse to heighten the tension between two countries and to mount its own version of Operation Gibraltar against East Pakistan, first to train rebels, Mukti Bahini, and then, when the Himalayan passes were starting to close with the on set of winter, to intervene directly in an advance on Dacca. In the later November Indian forces openly appeared in East



“Two souls with but a single thought Two hearts that beat as one” Shabir Shah and Nayeem Khan



"Between us and you there is a great gulf fixed"
Shabir Shah in TADA Court



“Where Youth grows pale and spectre thin”
Shabir after his first imprisonment



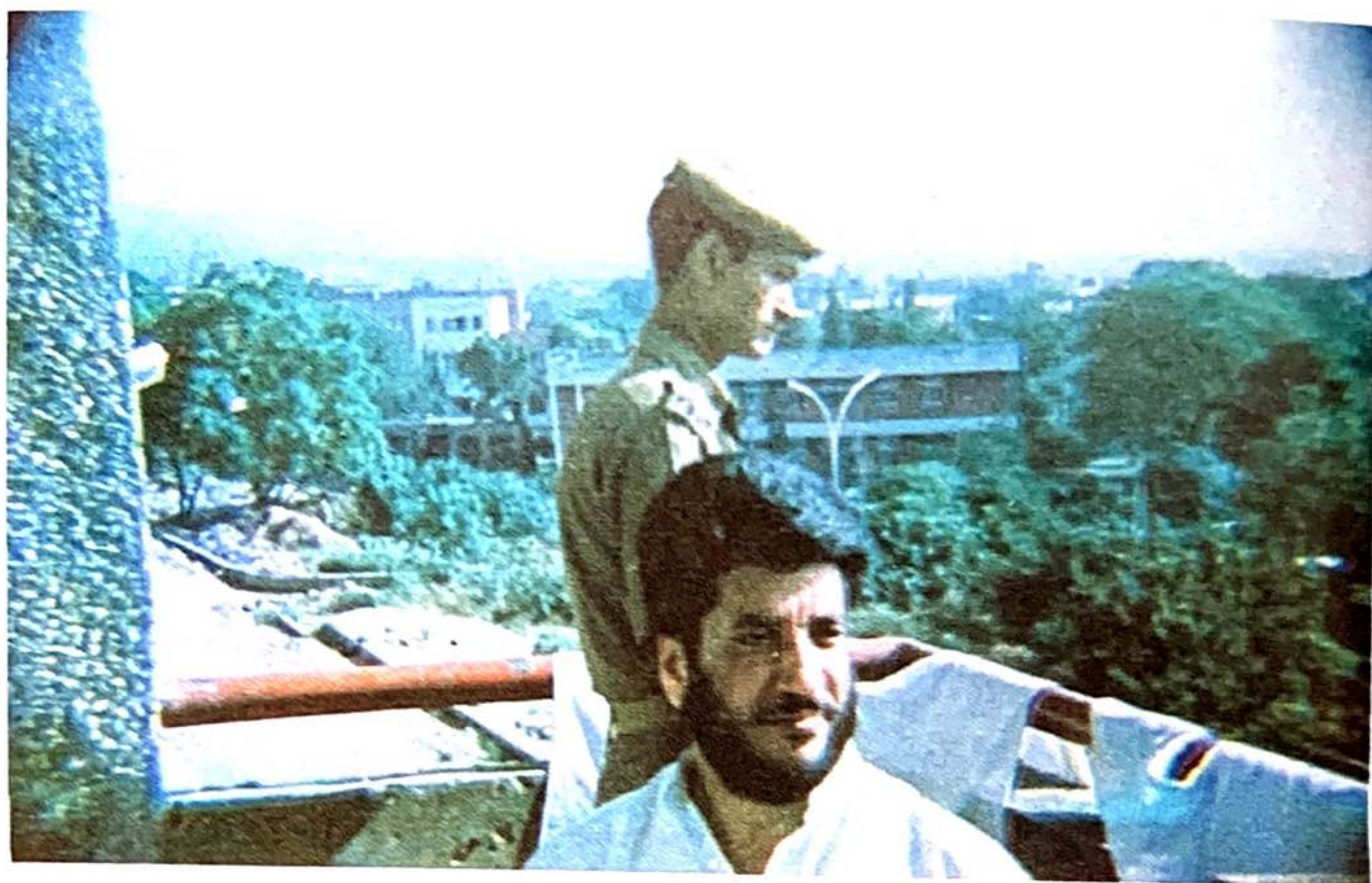
“The God who gave us life gave us liberty at the same time.” Shabir as youngmen's League activist.



“Right is the greatest Might”
Shabir Shah addressing a press Conference



“If winter comes, can be far behind”
Shabir Shah in prison



“To strive, to seek, to find, and not to yeild”
A Leader with a mission



“We have done that which was our duty to do.”



"A man of Masses"
Prof. A.M. Bhat addressing a symposium on "prisoner of Conscience and Kashmir problem" in the Conference Hall of Kashmir university.

Pakistan in support of Mukti Bahini and after the "Fourteen days war" of December 1971, Bangladesh became yet another independent country in the subcontinent. Though the hijacking of "Ganga" is still a mystery, the Government arrested scores of youngmen belonging to various factions and political ideologies. The high-handedness of the Indian administration can be judged from the very fact that, as A Lamb states, the entire planning of hijacking was devised by Indian intelligence agencies in order to divide Pakistan and the innocent Kashmiri youth were victimised for no fault of theirs. Besides manipulating the world opinion in their favour by self devised scheme of hijacking, the Indian intelligence agencies and the Government of Jammu and Kashmir claimed in January 1971 itself to have unravelled, what they called as, an indigenous terrorist organization working in the interests of Pakistan, namely "ALFATAH". It served the dual purposed for the Government : to damage the reputation of the Plebiscite Front so as to prevent it from participating in the coming elections, and to use it as an excuse for intervening directly in East Pakistan (Bangladesh). During the night of 8-9 January a large number of the Plebiscite Front supporters, Youth League and Youngmens League activists were arrested in the State under The Preventive Detention Act, besides those allegedly involved in ALFATAH, an underground organisation of dedicated and freedom loving youth who had decided to initiate an armed struggle in the State of Jammu and Kashmir in order to liberate it from Indian rule. Even Shabir Shah was arrested on 12-4-1971 from his home town Anantnag and interrogated at the most notorious interrogation centre, Bagh-i-Mehtab where from he was shifted to the Central Jail Srinagar and detained upto 23-6-1972 on the allegation of being a core pro-Pakistani activists—an allegation which has been persistently levelled against him. The local police officials as well as his parents and relatives tried to persuade him to suspend his political activities and continue his studies

but to no avail. It is believed that his elder brother Mohammad Sayeed Shah slapped him in a police lock up in 1970 and warned him of the dire consequences if he indulged in political activities again. However, neither he nor the police could convince Shabir Shah and dissuade him from struggling for the right of self-determination for the people of Kashmir.

It is very important to note that neither Mrs. Indira Gandhi, nor any other Prime Minister of India had the slightest intention of allowing plebiscite in the State of Jammu and Kashmir which could result in any part of it to opt either for Pakistan or remain independent. With the Indian victory of 1971 and the Simla Agreement of 1972, therefore, India was left, as Mrs. Gandhi concluded on the basis of her talks with Sheikh Mohammad Abdullah, 'with an option either to give some kind of internal freedom to the State within those limits laid down in Article 370 or to do away with Article 370 altogether and incorporate the State into the Indian Union'. The Hindu extremists, the Dogras of Jammu and the Buddhists of Ladakh, for demographic, geographic and ethnic reasons, pleaded for the second option whereas Sheikh Abdullah and his followers were mostly in favour of the first option.⁴ Sheikh Abdullah, it may not be out of place to mention here, from 1969 onwards had shown signs of his temptation for coming to power. Due to his old age and family pressures he had lost the zeal to confront Indian Government, and even the 1971 war had shattered his hopes to an extent that he was virtually frightened with India's power. As a result of it, he was persistently expressing his desire to search for a solution of Kashmir Problem within Indian Constitution which was welcomed by Mrs. Indira Gandhi in Indian Parliament on 29 March 1972. However, the Dogras of Jammu and the Buddhists of Ladakh did not appreciate Sheikh Abdullah's stand and organised protests and demonstrations demanding the regional autonomy for Jammu and Ladakh. They raised a hue and cry against what they

allegedly labelled as regional discriminations. When the RSS and Jana Sangh leaders openly attacked the Muslims, there was a counter retaliation in the Valley and the entire State got entangled in communal clashes. The people of the Valley raised anti-Indian slogans demanding the right of self-determination. The Government pacified Jammuites and Ladakhis by immediately redressing some of their grievances, but curbed the youth agitators in the Valley by putting them behind bars. In early August 1972 a number of Youngmens League activists, were arrested alongwith Shabir Shah under Defence of India Rules Act (DIR). However, Mr. Shabir was released on bail after seven months only to be rearrested, just after a gap of 100 days i.e. in May 1973.

In May 1973 a student of Government Degree College Anantnag discovered in the College Library a publication, Arthur Mee's *Book of Knowledge—Children's Encyclopaedia* which contained a drawing of Prophet Mohammad (BPUH) to whom Archangel Gabriel was dictating portions of the Holy Quran. Students in Anantnag College organised a demonstration on 17 May 1973 in protest against the authorities for permitting the obnoxious publication, containing such representations as are blasphemous according to Islam, to see the light of day. The demonstrations in the district Anantnag were organised by the local leaders of the Mahazi Azadi like Bashir Ahmad Bhat and Mukhtar Ahmad in collaboration with Youngmens League activists like Zahoor Ahmad and Shabir Ahmad Shah. When the rumour spread there were demonstrations throughout the Valley demanding that the book be banned. No doubt the Government of India as well as Kashmir Government banned the book but they were late and on 20 May 1973 the trouble had spread to Srinagar and other major towns where there broke out a wave of strikes, student marches and other expressions of public outrage directed against India and the British. The incident provided yet another stimulus to freedom loving Kashmiri youth, including

Shabir Shah's party Youngmens League to exhibit their resentment against Indian occupancy in Kashmir. They not only raised the slogans in order to demand the right of self-determination but also condemned Sheikh Abdullah's changing stance regarding Kashmir Problem. The demonstrations continued for many days during which a number of youth were killed by police firing and hundreds of the demonstrators were arrested. The demonstrators not only burnt effigy of Sheikh Abdullah but stoned the Motor cars carrying Molvi Mohammad Farooq and Mirza Mohammad Afzal Beg at Nowhatta, Srinagar on Friday 23 May 1973. All these conventional leaders were branded as 'Indian Dogs' primarily because a few days before the incident took place, Sheikh Mohammad Abdullah had said in a press conference at Baroda that "Kashmir is an integral part of India". The young agitated youth, particularly, the Mahazi Azadi and Youngmens League activists, who challenged the conventional leadership and declared openly that the solution of Kashmir Problem lies only in giving the people their right of self-determination, were arrested by the local police. Shabir Shah, the General Secretary of the Youngmens league was allegedly labelled as the main cause of all these disturbances and was arrested in May 1973 itself. The government held Shabir Shah responsible because it so happened that his elder brother Mohammad Sayeed Shah was the Librarian, Government Degree College Anantnag, where the book was discovered. The book, as A. Lamb states, was by no means a new copy and a copy had been acquired by a Mission School in Anantnag as long ago as 1911 which then had found its way to the College Library where it had remained unobserved for decades. Whether it was cause of the disturbances, or merely the tigger, is a debatable question and arguments can be advanced on both sides. However, Mohammad Sayeed Shah was put under suspension and subsequently he preferred to go on voluntary retirement. Shabir Shah was interrogated at the Baghi Mehtab Interrogation Centre

for three months wherefrom he was shifted to the Central Jail Srinagar and confined there for another nine months.

On 5 November 1973 when the Government, in consultation with Sheikh Mohammad Abdullah, decided to dedicate Government College for Women, Maulana Azad Road, Srinagar, to Pandit Jawahar Lal Nehru and name it as Jawahar Lal Nehru Memorial College for Women, the students of S.P. College, Womens College and S.P. Higher Secondary School protested in order to show their resentment. Immediately the protest gave rise to demonstrations in which the slogans were raised in support of the demand for right of self-determination. The police resorted to Lathi Charge and teargass shelling in order to disperse the violent demonstrators during which hundreds of boys and girls were injured. However, the whole plan of the government was sabotaged and it had to give up the idea finally and use all its force to crush the student demonstrations. Even the Colleges and Schools were closed for a week. These demonstrations by various students, including Youngmens League, caused a great hinderance to the progress of negotiations that were going on between Mrs. Indira Gandhi and Sheikh Mohammad Abdullah, which ultimately culminated in the Beg-Parthasarthy Accord. This Accord envisaged Sheikh Abdullah's retreat from his stand on Kashmir Problem, dissolution of the Plebiscite Front, and the procurement of the Chief Ministership of Jammu and Kashmir from Sayeed Mir Qasim, representing the local unit of Congress Party in the State. However, due to the incident of *Book of Knowledge* and renaming of Government College for Women, as well as the events that followed it, the mission had to be postponed till 1975.

The movement Plebiscite Front leadership realized the force of resentment of Kashmiris, particularly from youth, to the Accord, they convened a Seminar on Kashmir Problem on 5 July 1974 in which the leading political leaders from Pakistan and India were invited. While the Conference was going on some student organisations like

Youngmens League and Students Islamic Organisation organised demonstrations, demanding the right of self-determination. Even the students of Colleges, Schools and University organised massive relays and demonstrations, challenging the conventional leadership, and simultaneously, showing enthusiasm to struggle for the right of self-determination. Even Molvi Mohammad Farooq, Jamat-i-Islami and other organisations criticised Sheikh Mohammad Abdullah and other Plebiscite Front Leaders for their intentions to impose themselves on millions of Kashmiris. On 12 July 1974 Molvi Mohammad Farooq organised a massive demonstration from Nowhatta through Dalgate and Lal Chowk to Hazuri Bagh in which he raised pro-independence slogans. While he was addressing the rally a quarrel between the followers of two leaders (Sheikh Abdullah and Molvi Farooq) took place in the entire city. Next day on 13 July Sheikh Mohammad Abdullah, while addressing at the Mazari-Shuhada, outrightly refuted all the charges levelled against him by Molvi Farooq and the leadership of Jamat-i-Islami. Even Z.A. Bhutto, then Prime Minister of Pakistan, said in a public meeting at Azad Kashmir: "Even if there is some secret agreement between India and Sheikh Mohammad Abdullah, Pakistan is not going to accept it. The only solution to the Kashmir Problem is an impartial plebiscite whereby the people can decide their own future." Jamat-i-Islami also issued a press release soon after the meeting of its Majlis-i-Shura (Central Executive) which stated: "Any individual cannot represent the voice and aspirations of Kashmiris as a whole. Hence the Central Executive of Jamat-i-Islami requests the leaders of India and Pakistan to pay due regard to the emotions of Kashmiris in the September summit. While arriving at some solution to the Kashmir Problem, the will and aspirations of the people of Jammu and Kashmir should get the upper hand."⁵ In other words, all the political organisations jointly opposed the Abdullah-Indira Accord which was being processed by Plebiscite

Front and Congress alliance. The young freedom loving activists of various youth organisations and Youngmens League organised huge demonstrations against this proposed Beg-Parthasarthi Accord. The Government arrested a large number of political activists in order to crush all the parties and persons that were against this accord and could have caused hindrance in the transfer of power to Sheikh Mohammad Abdullah. Mr. Shabir Shah and S. Hamid (then General Secretary and the President of Youngmens League) were also arrested on 3-10-1974 and tortured in the most notorious interrogation centres, like Red-Sixteen and Bagh-i-Mehtab Srinagar, for four months where from Shabir Shah was taken to the Central Jail Srinagar and detained till 25-10-1975, when he was released on bail. In the jail he met Nazir Ahmad Wani and Fazal Haq Qureshi (Al-Fatah), Abdul Majid Pathan (Youth League) Mohammad Altaf Khan, alias Azam Inqillabi (Students Islamic Organisation) Ghulam Qadir Hagroo and others, all of whom put their heads together and decided to merge their identities as all these groups were against the accession of Kashmir with India. They also discussed the future plans of the freedom movement in Kashmir. As a result of it, while Shabir Shah himself was in prison, his friends and associates like Fazal Haq Qureshi, Nazir Ahmad Wani, S. Hamid, Abdul Majeed Pathan, Hamidullah Bhat, Musadiq Adil, Mohammad Aslam Wani, Bashir Ahmad Tota, Abdul Razak Sopori, Dr. Abul Aila, Dr. Farooq Ahmad Bhat and others formed Jammu and Kashmir Peoples League on 3 October 1974 with Fazl Haq Qureshi (who after three months was replaced by Mr. Nazir Ahmad Wani once the latter was released from Jail) as its Chairman and Abdul Majeed Bhat as the General Secretary. This newly formed organisation took strong exception to the on-going Indira-Abdullah or Beg-Parthasarthi Accord, by organising public protests and demonstrations throughout the Valley. The Jammu and Kashmir People's League, very rightly, branded the Accord

as a malicious design to sell the innocent Kashmiris for petty selfish gains. Its workers decided to continue their struggle for the right of self-determination for the people of Kashmir. In fact, Peoples League played a very vital role in instigating Kashmiri Youth against the Kashmir Accord or Beg-Parthsarthi Accord, as a result of which, there were massive protests and demonstrations in the State. In February 1975, one of its active workers, Ghulam Mohammad Bulla, was arrested from Sopore for organizing a demonstration against Sheikh Abdullah's proposed public meeting at Sopore. Bulla was tortured to death in police custody which brought people on the roads to raise pro-independence and anti-Indian slogans. The police resorted to Lathi Charge and tear gas shelling as a result of which many people were injured whereas hundreds of Youth were arrested. The officiating President of Peoples League, Abdul Razak Sopori too was arrested and tortured to such an extent that he turned mad and continues to be so till to day. Similarly, Peoples League rejected outrightly the validity and authenticity of the elections in the disputed State of Jammu and Kashmir where the Assembly, even according to UN resolutions of 1957, does not possess the statutory powers to decide the fate of Kashmiris. These days Shabir Shah had apparently become a businessman because his parents had persuaded him to start business in order to earn something for his living, whereas their main intention was to dissuade him from political activities. However, when he opened a Hoisery Shop it became the Centre of political activity rather than a means of his livelihood.

On 11 February 1975 Pakistan Prime Minister, Late Z.A. Bhutto, gave a call for the 'Kashmir Bandh' in order to exhibit the overall resentment of the people of Kashmir against the Beg-Parthasarthi Accord. The Peoples League, Jamat-i-Islami, Students Islamic Organisation, Mahazi Azadi and other organisations played an active role in making the call a success. All business establishments,



**"THOU WERT MY GUIDE,
PHILOSOPHER AND FRIEND"**

Shabir Sah's father who died in police custody
on 4 April 1989.



میں شہر شاہ صاحب کی نظر بندی کا ایک سال مکمل ہونے پر، اُن کی صحت یابی
عمر کے لیے بھیڑ ذبح کر کے گوشت عام لوگوں میں تقسیم کیا جا رہا ہے۔

عالی کدر
میں سے
شہیر احمد شاہ
کے
صحت یابی
کے لئے
بھیڑ ذبح
کیا گیا
تہ ہو یہ
پیلز لنگ



People offering Sacrifices and wishing good health
for their leader.

educational institutions, offices and banks remained closed in the Valley, as well as in the large areas of Jammu and Ladakh. Even the transport services, both private and public, remained suspended throughout the day. However, Sheikh Mohammad Abdullah, at the behest of Mrs. Indira Gandhi, was given the support by the local Congress Leaders and Sayeed Mir Qasim, then Chief Minister of the State, resigned from his office, in Sheikh's favour, to become a Cabinet Minister in the Centre. The people who opposed the Accord were mercilessly crushed and in the midterm elections Jamat-i-Islami, which put its own candidates in fray against Sheikh Mohammad Abdullah and Mirza Mohammad Afzal Beg, had to pay a huge price as most of its members were mercilessly beaten and a few tortured to death.

When Shabir Shah and other youth activists who had opposed the Accord were released from prison, Mr. Maqbool Bhat had re-entered the Valley alongwith two of his associates, Abdul Hamid and Riyaz Ahmad Dar. They had a number of meetings with Shabir Shah and Nazir Ahmad Wani in which they exchanged ideas and decided to struggle unanimously, in spite of their difference in approach, for the right of self-determination. These meetings, particularly, the one held at the residence of Abdul Razak Sopori, boosted the morale of Shabir Shah at a time, when the conventional leadership had deceived the innocent Kashmiris just for their personal gains. However, when Mr. Maqbool Bhat and his two associates were arrested at Langate at 4.30 p.m. on 9-6-1976, the same night Shabir Shah too was arrested again (just after spending less than three months as an independent citizen) from Anantnag by the local police headed by District Superintendent of Police. He was straight away taken to Talab Tilu Interrogation Centre Jammu and interrogated and tortured for three months in the scorching heat when even Jummuties leave their homes to take refuge in tourist resorts like Simla and Kashmir. From the interrogation Centre he

was shifted, in an unconscious state, to the Central Jail Srinagar and confined there for another 28 months barring a fake release on 14-9-1977, when he was released and immediately rearrested on a different allegation. It may not be out of place to mention here that in the Central Jail Srinagar Shabir Shah is believed to have been visited by Begum Sheikh Mohammad Abdullah, Sheikh Ghulam Rasool (the then Additional Home Secretary) and D.I.G. Kashmir, Khajooria, on the eve of Ramzan-Idd. The eye witnesses who were accompanying Begum Abdullah narrate that while patting the shoulders of Shabir Shah she said to him, "What are you going to achieve by this, my son? Come and study, we will provide you all the facilities." At this Shabir Shah bluntly answered, "I am neither Sheikh nor son of a Sheikh. I will prefer death than to compromise my principles". Sheikh Mohammad Abdullah who had given up the Kashmir cause for his chief ministership and branded his 22 years struggle for Plebiscite as a mere vagarancy (in the State Legislative Assembly) did not release him till 1978. He was confined continuously for 31 months under the Maintenance of Indian Security Act (MISA).

In 1976 itself Indira-Government reached to a brink of disaster when it declared emergency in India which was extended to the State of Jammu and Kashmir, on 29 June 1976, totally against the spirit of Article 370. Under the garb of emergency Abdullah Government, which had come into power on 22 February 1975, arrested leaders of Jamat-i-Islami who had right through challenged his leadership, and Peoples League activists who opposed his Accord as well as the accession of Jammu and Kashmir with India. Sheikh Abdullah even installed his son Farooq Abdullah as the President of Youth National Conference in a Convention held at Iqbal Park on 21 July 1976. When Indira Gandhi dissolved Indian Parliament, and in the elections held in March 1977, Morarji Desai of Janata Party became India's new Prime Minister, the local Congress

Unit under the leadership of Mufti Mohammad Sayeed withdrew its support to Abdullah on 26 March 1977, leaving him with no alternative but to recommend the Governor to dissolve Assembly and hold fresh elections. Governor's rule was imposed and Abdullah declared in a press Conference "Since the Congress Party has withdrawn its support, the Accord that has been concluded between him and Indira Gandhi should be deemed to have cancelled."

The elections in the Valley saw new changes and intrigues because many executive members of the National Conference and Jana Sangh joined the Janta Party as did Molvi Masoodi and Molvi Farooq. Top Janata leaders like Morarji Desai, Jagjivan Ram and Charan Singh visited the State and launched election campaign against Sheikh Abdullah. However, Sheikh Abdullah's National Conference took advantage of this situation and fought elections on anti-Indian plane. Mirza Afzal Beg succeeded in befooling the innocent masses by promising them that in case the National Conference was voted to power, Rawalpindi Road would be opened and all such provisions, laws and amendments in the Indian Constitution and so-called State Constitution, which were against self-determination of the people, would get revoked. Besides Sheikh Abdullah's feigned illness and his boycotting broadcasting on Radio and T.V., his henchmen Mirza Afzal Beg exhibited in public gatherings Rock Salt and Green Handkerchief—representing symbolically, for people, Pakistan and her flag. In this deceitful guise the National Conference succeeded, at least in bringing down its opposition, among Muslim masses and the entire plan is believed to have been devised by Indian Congress leaders to keep Sheikh Abdullah in power. The Peoples League suspected, very rightly, that all such drama was tacitly being played to hoodwink the innocent Kashmiris. Therefore, its leadership boycotted this election and all other elections that followed. However, by usual manipulations of booth capturing and rigging the National Conference won this election and

Sheikh Abdullah's Government tried to curb anti-Indian feeling among Muslim masses by usual techniques of repression. On his recommendation the Governor issued Public Safety Ordinance on 29 October 1977 which became an Act in 1978—an act which was mercilessly used by subsequent Government to crush the freedom loving people of Kashmir.

When Shabir Shah was released in 1978, he, along with other leaders of Peoples League, revitalized the activities of his organisation and instigated the youth to struggle for the right of self-determination. He travelled throughout the Valley, talked to every energetic student and youth, and established the units of Peoples League in the nook and corner of the State. Sheikh Abdullah's Government did not take notice of the activities of Peoples League as it was bent upon crushing the largest anti-Indian Party, and the greatest threat to his Government, Jamat-i-Islami. It is clear from the events of 4 April 1979 when Z.A. Bhutto was hanged and the public wrath was directed against the workers of Jamat-i-Islami. The workers of the National Conference and Congress did their utmost to crush Jamat-i-Islami and see to it that its workers do not dare to contest any elections in future. In fact, while addressing to the public on 3 April 1979 Sheikh Abdullah openly stated :

Your wrath and anger is genuine but spare the Government property while giving vent to your feelings.

Consequently, the Government deliberately remained passive and negligent in protecting the innocent citizens when their property was being looted and their houses burnt. In the Annual Conference of the Party, held in 1979 itself, the party President, Maulana Sa'ad-ud-Din openly declare that the Government miserably failed in protecting the peace loving people of Kashmir. He advised his party workers to protect themselves and revitalize the youth

wing of the party, Islami Jamiat-u-Tulaba which had been formed in 1975 itself.

Though the entire drama was played by the National Conference, the Congress, the local unit of the Communist Party, and other secular forces, the Government blamed Shabir Shah for instigating youths to resort to violence and create disorder.⁶ It may not be out of place to mention here that the greatest damage done to the workers of Jamat-i-Islami in April 1979 was in district Anantnag. However, the person who monitored all these anti-Jamaat demonstrations was Mufti Mohammad Sayeed (then President J & K Pradesh Congress Committee) who directed his party workers at Bijbehara (his native town) to indulge in violence, arson, looting and killing, and "crush them to an extent that they do not dare to contest elections again." Besides, by doing this he aspired to get the Chief Ministership by impressing upon the Central leadership of Congress, particularly Indira Gandhi, that Sheikh Abdullah was incapable of controlling the masses and crushing the religious forces in the State, which he could do in spite of not being in power. When Shabir Shah was under detention, his father, Ghulam Mohammad Shah filed a petition in the Supreme Court of India on 30-10-1979 in which he appealed the Court to "quash the order of detention bearing No. 299—304 St. Dated May 23, 1979 passed by the District Magistrate, Anantnag in the State of Jammu and Kashmir."⁷ However, when the government could not prove anything substantial against Shabir Shah, they released him only to be re-arrested.

In 1980, Islami Jamiat-u-Tulba, the youth wing of Jamat-i-Islami, headed by Sheikh Tajam-ul-Islam, planned to hold an International Islamic Conference in Srinagar and invited to it all the leading Muslim scholars of the world. They were also supported by other political and

religious organisations like Islamic study circle, Peoples League, and Mahazi Azadi. When the Government realized the far reaching consequences of organizing such an international conference, on a disputed territory, as well as the motive of the freedom loving Kashmiri youth to exploit the occasion for persuading the civilized world to pressurize the Government of India to grant Kashmiris the right of self-determination, it arrested hundreds of youth and political activists under the notorious Public Safety Act. Shabir Shah was arrested from Anantnag on 28-7-1980, beaten in the police lock up at Kokernag for two months and subsequently confined in the Central Jail Srinagar for one more year.

He was released towards the end of 1981 and he started an ice-cream factory in collaboration with Mr. Satish Kumar from Jammu but in early March 1982 Peoples League and Mahazi Azadi launched an anti-liquor campaign in Anantnag. It was a real success in the sense that the wine shops in the entire town were closed forever. The demonstrations were held and rallies were organised in which Farooq Rehmani (Chairman, Peoples League) Bashir Ahmad Bhat (General Secretary, Mahazi Azadi) and Sheikh Ghulam Hassan (General Secretary, Jamat-i-Islami) and Ghulam-ud-Din (Imam of a local Mosque) addressed the public in addition to a number of religious scholars. The Government arrested a number of youth like Mushtaq Ahmad Malik, Javeed Ahmad Kotwal, Abdul Rashid Khan on 31 July 1982 and Shabir Shah, the main organizer was no exception. He was arrested and FIR/148/153 ARPC was filed against him in the Police Station Anantnag. However, his arrest gave rise to large-scale demonstrations and protests in the entire district. All commercial establishments and educational institutions were closed for five days, creating a law and order problem for the Government. Consequently, the Government had no option but to release all the detainees including Shabir

Shah on bail on 25-9-1982. However, just after a few days he was re-arrested from Kailash Restaurant, Srinagar, where he was attending a party meeting. He was taken to the police station Kothi Bagh and beaten mercilessly not only by the police but also by the Superintendent of Police, District Srinagar. In the process he received a serious head injury which has been causing problems to him ever since. In an unconscious state he was shifted to the Central Jail Srinagar and confined there for another 10 months.

After a period of 13 months continuous imprisonment he was released. He gave a press conference in which he appealed to all the saner people of Jammu and Kashmir State not to participate in the State Assembly elections because such elections have no validity in a disputed State. The National Conference Government could not digest this truth, though for twenty two years its leaders had fought on similar lines. He was arrested and kept in the police lock up at Duru and Kokernag, Anantnag, for three months and released a few days before Rajiv Gandhi had to address a public gathering at Anantnag in connection with the State Assembly elections. In fact, the police were forced by the youth activists as they threatened the authorities to disrupt the procession if Shabir Shah was not released. The authorities yielded to the pressure and released Shabir Shah after which this youth leader had no option but to remain under ground in order to escape from police arrest. In spite of his playing the hide and seek with the local police Shabir Shah activated Peoples League and continued his mission of persuading the youth to unite in order to demand the right of self-determination. He attended a number of meetings and gave many press conferences, as a result of which the entire Kashmir police and the intelligence agencies began to hunt for him. The police filed a number of F.I.R.'s against him in various Police Stations and levelled against him the charges of indulging in various subversive and anti-nation activities.⁸

In 1983 a one-day international cricket match was played at the newly constructed Amar Singh Club Cricket Ground, Srinagar and the world saw Shabir Shah and his supporters in action rather than the players of the rival teams. The youth activists of Peoples League, Islamic Students League and Other organisations, under the leadership of Shabir Shah, not only protested against holding such matches on a disputed territory but also raised pro-independance slogans. Mr. Shah himself managed to hand over a memo-randum to the Captain of the West Indies Cricket Team, Clive Lloyd, in which he requested the World Community to take steps for the implementation of the UN resolutions on Kashmir. Even the thirty thousand spectators, who for long had been aspiring to show publically their resentment against Indian imperialism raised anti-Indian and Pro-independence slogans. The Kashmir police tried their best to arrest Shabir Shah but failed because of the interference from his supporters and because of the mass protest in the Stadium. Within a few days the Government announced a reward of ten thousands rupees for his arrest as if he was a criminal, a subversive or a murderer. His home was raided and ransacked, as were the houses of his relatives and friends, and his father and brother were arrested in March 1984 and tortured at the most infamous interrogation centre, Red-16, Srinagar, so as to get from them clue about his hideouts. It was really a tough and troublesome period in Shabir Shah's life as he had to change his hideouts frequently, wear masks of a school teacher, University student etc. and live a life of loneliness and solitude.

On 26 April 1984, D.I.G. Kashmir range, Ali Mohammad Watali, headed a team of officials and arrested Shabir Ahmad Shah from Barzulla, a suburb of Srinagar city. His arrest was followed by statement from the Government that propane literature and wine were recovered from his custody, forgetting this time that a couple of years before they had arrested Mr. Shah for launching anti-liquor

campaign in Anantnag. The authorities were bent upon spoiling the image of this Kashmiri youth leader by levelling against him fake and false charges. His father (Late) Ghulam Mohammad Shah filed an application under Cr. M.P. No. 75/84 in the High Court of Jammu and Kashmir praying that Shabir Shah's Counsel and his relations be allowed to see him. The High Court issued the order No. 2325 dated 8-6-1984 directing the State of J & K, District Magistrate Srinagar and District Magistrate Anantnag to permit Ghulam Mohammad Shah to meet his son, wherever he is lodged. He was tortured at Red-16 for two months during which Mr. Watali himself once beat him to such an extent that his kidney got affected and his left ear drum damaged permanently. In spite of this, he was not shifted to hospital but to the sub-jail Heera Nagar, then to sub-jail Kud, and from Kud to the Central Jail Srinagar where more than 250 youth activists were already kept in detention. After sometime he was shifted to the sub-jail Kud and then taken to an interrogation Centre for one month and ultimately confined in the sub-jail Heera Nagar Jammu. This time he had the confinement of 2 years and three months during which he was released just for a few seconds, after two years—the longest period of confinement given to a prisoner under Public Safety Act, 1978, in order to legalize his persistent detention.⁹

When he was released from the sub jail Heera Nagar, Jammu, on 2 July 1986, he addressed a press conference at Jammu itself—on the same day—and categorically denounced the sanctity of Indira-Abdullah Accord as well as the validity of State Assembly elections. He outrightly stated that Kashmir has never been an integral part of India and Kashmiris are being subjugated by alien rulers whom they do not own. Explaining his aim and mission he asserted that he and his party, Jammu and Kashmir Peoples League, aim at building up pressure upon India, through protests and demonstrations as well as through international agencies, so as to compel it to fulfil its

promise of holding a free and impartial plebiscite in the State under the UN supervision. The Government arrested him again along with 30 political activists, who had come at his residence in Anantnag, on 12 July 1986. After inflicting inhuman torture upon him at the Red-16 Interrogation Centre for two months the police shifted him to the Central Jail Jammu. On 8 September 1986 he was presented before the State Advisory Board, functioning under the auspices of Jammu and Kashmir High Court, but the Government could not, as will be discussed in the next chapter, produce any solid evidence in support of the charges levelled against him. It is for the first and even last time that Shabir Shah appeared before the State Legal Advisory Board, presided over by the Chief Justice of Jammu and Kashmir High Court, Justice A.S. Anand. The main cause of his appearing before it, however, was that the administration wanted to shift him to the Central Jail Jodhpur Rajasthan which Shabir wanted to evade in order to see that those arrested with him are safely released. Besides, it also gave him an opportunity to see his parents, relations and friends as the proceedings were conducted at Srinagar, in the premises of J & K High Court. Handcuffed Shabir Shah said to Justice Anand, "Sir, I would willingly answer your questions had you been functioning in your capacity as the Chief Justice. Since presently you are representing the Government I think it is immaterial whether I answer your questions or not because I do not expect any kind of Justice." Justice Anand, as well as the other members of the board, had all praise for this straight forwardness but could not help to ratify his detention under the Public Safety Act. Once the Government realized the futility of using force in order to crush his ambitions and aspirations, they tried to persuade him to change his stand. Various administrative officers went to see him at Kothi Bagh Police Stations where all the detenués were initially placed and conveyed the willingness of the State Governor, Shri Jagmohan, to

grant him all the possible amenities of life, once he gave up his political activities as well as his stand on Kashmir Problem. Shabir Shah told these administrators :

I am not Sheikh. I am Shah. I would prefer going to gallows than to betray my people. Let the entire civilized world know how innocent Kashmiris are being oppressed and tortured by the Indian Government.

The Government levelled against him the fake charge of border crossing and arms smuggling and detained him under Public Safety Act till his detention was quashed by the High Court of Jammu and Kashmir on 27 April 1988.¹¹ However, the police rearrested him outside the jail on a different allegation and detained him till he was produced before the Judicial Magistrate Kupwara who ordered his release. The authorities wanted to arrested him again but, due to the intervention of the members of the local Bar Council, they failed in their efforts.

Shabir Shah was released on bail on 28 May 1988, and after spending two weeks with his old parents at Kadipora, Anantnag, went underground in order to evade further arrest. These were the days when the armed rebellion by youth had started in the Valley and the freedom loving enthusiastic youngmen were evidently trying to rewrite Kashmir history by introducing a new calender of public events. There was an uprising, a hue and cry, followed by Hartals, Bandhs, Blackouts and Curfews with occasional bomb blasts, one here and one there. In every village and town, in lanes and streets, in schools and colleges slogans like "War Till victory", "Our demand Plebiscite", "We want freedom" were raised. It was a mass uprising because the people had become fed up with all the democratic means of struggling for freedom. Even the various organizations which had participated in the 1987 elections under the banner of Muslim United Front had realized the hoax of Indian democracy in Kashmir, once the ruling National

Conference and Congress alliance widely rigged the elections, and used force to crush the Youth who had supported the Muslim United Front candidates. The wide-spread alienation that followed has been palpable, especially among the youth, who felt cheated of their democratic rights.¹² It was a real success for Shabir Shah to see the people of Kashmir awakening from their long slumber and the young blood ready to sacrifice everything for getting the right of self-determination, a right promised to them by the Governments of India and Pakistan before the UN Security Council. Since the people of Kashmir knew the persistent suffering faced by him and his struggle for the cause of freedom, the militant leaders like Azam Inqillabi, Ishaq Majeed Wani, Mohammad Yasin Malik, Abdul Hamid Sheikh, Javeed Ahmed Mir and others are believed to have visited him frequently at his hideouts and sought the guidance of this 'uncrowned king of Kashmir freedom movement'.

Though he changed his hideouts regularly and gave police a real tough time, he revamped Peoples League and organised massive demonstrations in the Valley, demanding the right of self determination. On 27 October 1988 he, from his hideout, gave a call for the 'Kashmir Bandh' in order to exhibit Kashmiris' resentment against Indian occupancy of the State in 1947 when Indian troops has landed at the Srinagar Airport. In a press note he explained his firm belief that —

the accession of Jammu and Kashmir with India is only provisional and subject to ratification by people through an impartial plebiscite.

The Jammu and Kashmir Peoples League gave a similar call on 19 January directing the people to observe 26 January 1989, the Republic Day of India, as a "Protest Day" and exhibit their resentment against Indian rule in Kashmir. Shabir Shah issued a press release in which he

appealed the shopkeepers, transporters and other sections of people to make the 'Hartal Call', given by the League, as well as by other organisations like Islamic Students league, and Mahazi Azadi a big success. The People wholeheartedly responded to the call of their leader, as a result of which a total 'Bandh' was observed not only in the Valley but also in Jammu and Ladakh. It was a great challenge to the Government of India and a denial of their claim that Kashmir is an integral part of India. The resentment of Kashmiri Youth was further affirmed by celebrating in the State the death anniversary of Mr. Maqbool Bhat, on 11 February 1989, when all organisations and militant outfits gave a call for "Kashmir Bandh" as a protest against the hanging of this great leader of the Kashmir Freedom Movement in Tihar Jail, for an alleged killing of an intelligence official. On this day the entire Valley witnessed large scale protests, demonstrations and even bomb blasts. The Government of India and the local administration held Shabir Shah responsible for the mass upsurge and armed insurgency in the State. He was declared, alongwith Ishfaq Majeed Wani, Mohammad Yasin Malik, Javeed Ahmad Mir, Abdul Hamid Sheikh as a "Proclaimed Offender" with an award of Rupees 25,000.00 on his head. Since these youth leaders were underground and enjoyed the immense public support, the police could not easily arrest them.

The police frequently raided Shabir Shah's house at Kadipora, Anantnag, during the late hours, harassing his old parents and other family members. Even the houses of his friends like Abdul Gani Sheikh, Mohammad Amin Dar, Ali Mohammad, Abdul Aziz Sheikh, Mohammad Rafiq Wani, Mohammad Ismail Sofi, Ghulam Qadir Bhat, Zahoor Ahmad Sheikh, Mukhtar Ahmed Sofi, Ghulam Ahmad Ganai, Ghulam Hassan Sheikh and Mohammad Amin Bhat were ransacked and their parents harassed in order to get clue about Shabir Shah's hideouts. Scores of other youngmen were arrested and subjected to third

degree methods of torture for their affection for and association with Shabir Shah. Even earlier in 1984 his brother Mohammad Sayeed and his father Ghulam Mohammad Shah were arrested and tortured at Bagh-i-Mehtab interrogation centre for a couple of weeks. His sister, married to a Judge Da'ood Ahmad Khan, and presently living at Rawalpura, Srinagar, too was not forgiven by the local administration. Her house was ransacked by a police team headed by Mr. Gulzar Ahmad and S.H.O. Paul, her property was broken, her ornaments were looted and her domestic servant Abdul Gani was arrested and subjected to torture in police lock-up for ten days. These people had to suffer merely for being the relatives of Shabir Shah, against whom the Government of India as well as the Government of Jammu and Kashmir is yet to prove any gruesome charge except that he is demanding the right of self-determination for Kashmiris which has been promised to them by the leaders of India.

The most terrible shock to Shabir Shah and in fact a death blow to the Indian rule in Kashmir came on 4 April 1989 when Peoples League gave a call for "Kashmir Bandh" in order to protest against the police atrocities, as well as against the high-handedness of the State Administration. There was an overwhelming response throughout and all business establishments, offices and educational institutions in the Valley remained closed. The demonstrations and protests were held throughout and the police resorted to Lathi Charge and tear gas shelling. At a number of places the police opened fire in order to disperse the demonstrators and in the process hundreds of people were wounded. When the police was chasing a group of students in Anantnag who, they presumed, were planning to organize a demonstration, a teenager entered in the house of Ghulam Mohammad Shah in order to escape from the police atrocities. Four policemen namely Muzzaffar Ahmad (Sub-Inspector), Ghulam Jeelani (sub-Inspector), Abdul Rashid (Constable

101/1) and Bashir Ahmad (Constable 371/1) chased the boy and entered in the house of Shabir Shah. They abused Shabir Shah's father, Ghulam Mohammad Shah who was standing at the gate and called him 'father of a devil'. They not only beat him by hands and fists but also dragged him mercilessly into the police jeep, striking his head against the railing of the vehicle. He was unlawfully and illegally arrested and taken to Mattan Chowk, Anantnag, where the Deputy Superintendent of Police, G.M. Kalayi, beat him in presence of a large crowd for having failed to provide any clue about the whereabouts of his son, Shabir Shah. Mr. Kalayi directed his subordinates to take Shabir Shah's father to the District Police Lines, Anantnag, and apply the 'third-degree' method of torture till he comes out with any solid clue about the whereabouts of Shabir. Due to his old age and poor health Ghulam Mohammad Shah could not tolerate the police torture and became unconscious. When the police sensed that the torture has caused his death, they shifted him to District Hospital Anantnag where he expired at 1.30 a.m. on 5-4-1989.

The brutality of the local police and the high-handedness of the administration was also exposed when in the middle of the night Mr. Shah's family members were asked to collect the dead body of Mr. Shah and were directed to burry him during the night hours itself. They resisted the police pressures and requested the Deputy Commissioner and the Superintendent of Police (District Anantnag) to conduct the postmortem of Mr. Shah's dead body in order to verify whether his death was the result of "Cardio respiratory arrest" as Dr. Shadi Lal had stated, in his death certificate, or was caused due to the torture inflicted upon him in the police custody. These requests were turned down flatly and they were threatened with the dire consequences if they did not burry Mr. Shah's dead body without any postmortem. The refusal of the police to conduct the postmortem itself is an evidence of their

malicious designs to conceal the fact of Mr. Shah's murder in the police custody.

On April 1989 curfew was imposed in the entire Anantnag town and people were not allowed to move out of their houses. However, those who managed to reach Kadipora and participate in the funeral ceremony of Shabir Shah's father could observe the marks of violence upon his dead body. The people became violent for this 'father for son, brother for brother, and even mother for son approach' of the local police. The situation in Anantnag worsened to an extent that the authorities had to handover the entire town to Army in order to maintain law and order. When the news of the death of Ghulam Mohammad Shah in police custody spread there was a "Bandh" in the entire Valley which was accompanied by violent clashes between the police and the angry mob in Sopore, Baramulla, Badgam, Kupwara and Srinagar.

The death of Ghulam Mohammad Shah was condemned throughout the country and all the political parties, leaders and the newspapers demanded that there should be a judicial probe into the matter. Sayeed Mir Qasim, a veteran Congress leader and once the Chief Minister of the State, in a memo-randum to the Prime Minister of India, described the incident as "a callous and ham-handed approach of the administration." Abdul Gani Lone, Chairman, Peoples Conference, demanded a judicial probe into the incident and asked for a stern action against the persons responsible for Mr. Shah's death.¹³ Similarly, Sayeed Ali Shah Geelani, Abdul Rashid Kabil and even the Chairman, Anantnag Prabandhak Committee demanded a judicial probe into the incident and described it just a murder.¹⁴ The Weekly *Sheeshnag*, described the incident and its repercussions on 17-4-1989 under the following head-line :

شبیر شاہ کے والد کی موت۔ ایک چنگاری۔ جو شعلہ بن گئی۔

(The death of Shabir Shah's father : a spark turned into fire). The Weekly **Alsafa**, dated 10-4-1989, analysed the entire episode in an article entitled :

جناب غلام محمد شاہ کی موت پولیس اسٹیشن میں : حادثہ یا قتل؟

(Death of G.M. Shah in police custody : An accident or murder) and at page 7 of the same issue demanded a stern action against the persons or person who are found guilty. The daily *Srinagar Times*, dated 11-4-1989 blamed the Kashmir Police for the illegal arrest and subsequent death of G.M. Shah in its editorial entitled :

شعلوں پر تیل چھڑکنا

The Kashmir Times dated 10-4-1989, analysing the situation, maintained that —

the situation became out of control for the reasons that an unwise action on the part of the police in arresting 70 year old Ghulam Mohammad Shah, the father of underground Peoples League leader, in Anantnag, and death in police custody amidst rumours that he was subjected to torture by the police.

Even the Government authorities could not give convincing explanation about Mr. Shah's death. In a statement the Deputy Commissioner Anantnag, Mr. Ali Mohammad Mir, which appeared in *The Kashmir Times*, dated 11-4-1989, admits that the arrest of Ghulam Mohammad Shah, an old man of seventy, was a mistake committed by the local police. While talking to the newsmen he said that the police officers who arrested Mr. Shah while chasing some miscreants were not aware of the consequences which would follow his arrest. Deputy Commissioner was all praised for the M.U.F. leader Qazi Nisar Ahmad, Local M.L.A. Mohammad Sayeed Shah, who happens to be the elder son of Ghulam Mohammad

Shah, and Ghulam Nabi Hangroo, a pro Jamat-i-Islami lawyer who saved the situation from worsening by coming out openly in fighting the miscreants who tried to communalise the situation, by attacking minority houses and places of worship. Even the *India Today* reported : "After Shah's burial events in Anantnag took an ugly turn. Agitated youth set ablaze the ancestral home of Revenue Minister P.L. Handoo, attempted to loot some houses of Hindus and indulged in large scale violence and arson. What saved the situation from turning into communal mayhem was not the police but local Muslims who came out in large numbers to protect their Hindu neighbours. As the situation worsened and the administration failed to restore order, the town was handed over to the Army and curfew was imposed."¹⁵ Even the Director General of Police Jammu and Kashmir, Mr. Ghulam Jeelani Pandit, gave a press statement in which he admitted that the arrest of Shabir Shah's father was a mistake.¹⁶ In spite of these statements when Shabir Shah's brother, Mohammad Sayeed Shah, lodged a complaint with the Superintendent of Police on 5-4-1989, demanding a stern action against the culprits, the S.P. in a written communication vide No. 823/25/CS dated 17-4-1989 informed him that "the said Shri Ghulam Mohammad Shah had been taken into custody by police official on duty on 4-4-1989. He subsequently died in District Hospital Anantnag on 5-4-1989. Since there are allegations that the said individual died due to torture while in police custody, the District Magistrate Anantnag has been requested for initiating an enquiry under section 176/Cr.P.C. which is a legal requirement in all cases of death in police custody. Further action can be initiated only after the findings of Magisterial Enquiry is made available." After this evading to register an F.I.R. Sayeed Shah filed a written complaint in the Court of Chief Judicial Magistrate Anantnag, on 22-7-1989, which is still pending there.

Shabir Shah lost his father but not the courage to wage a war against Indian atrocities in Kashmir. In May 1989 he issued a pamphlet, the title page of which carried "the map of Kashmir, with a snake sitting thereon and a sword piercing the snake in the back drop of sun". The title page also carried a Quranic verse :

الارضُ لِلّٰهِ وَالْحَكْمُ لِلّٰهِ

which means that the Earth has been created by Allah and His supremacy alone should be established upon it. What symbolic meaning the Government of India derived from it so as to include it in 'Grounds of detention under J & K Public Safety Act, 1976' is still unknown.¹⁷ By stating that the sword was inscribed with words "La Illaha Illallah, Mohammadur-Rasul Lallah (S.A.W)", the Government probably wanted to assign him the label of being a communal Muslim. Similarly, the pamphlet hardly contains any provocative and prejudicial remarks as the Government allegedly stated. It simply called upon the youth to join the liberation movement against the subjugation of India and directed the masses to observe a four-day Bandh, from 11 to 14 May, in order to show their solidarity with the organisations that has started the 'Quit Kashmir Movement'. He issued two more pamphlets in the month of June 1989 in which he appealed the people to unite and seek independence from India because India has deliberately neglected the promise of giving the people of State their right of self-determination.

In the second week of August 1989 a pamphlet was issued by Jammu and Kashmir Peoples League, under the caption, "15 August Ko Hartal Ki Appeal", in which Shabir Shah appealed the people of Kashmir to observe the Indian Independence day, falling on 15 August 1989, as "a Black Day" and boycott the Government organised celebrations. The appeal also figured in the form of a headline in all the local dailys as well as in weekly *Chattan*. Though

the Government interpreted it as 'violating the law of the land with a view to promote disaffection against the Union of India', Shabir Shah's arguments were logically, politically, legally, and even constitutionally very sound because he stated :

15 August, when the people of India celebrate their independence day, reminds the people of Kashmir how the Indian leaders did not fulfil the promises made by Pandit Jawahar Lal Nehru before the UN Security Council, to grant Kashmiris the right of self-determination.

Consequently, he wrote, "15 August reminds us of our servitude and subjugation by an alien power and hence the people should not celebrate the day". In an interview to Yousuf Jameel, B.B.C. Correspondent, Shabir Shah stated :

All organisations, struggling for the freedom of Kashmir, have unanimously decided to exhibit their anger by organising public protests and demonstrations on every National Day of India, be it 26 January or 15 August. We are not against people of India but, at the same time, we cannot participate in their happiness unless we are ourselves happy. We want the entire world should know that innocent Kashmiris are being subjugated by tyrannical rule of India. Indian leaders proclaim that India is a democratic country, supporting the cause of every freedom loving community or country. These are hallow claims intended to dupe the world and manipulate the world opinion in their favour. We want to present the naked truth before the entire world which is that Indian rule has neither been, nor will be, acceptable to the people of Kashmir¹⁵

Such statements became the moral booster for the young freedom fighters, though it unnerved the Government of India and its intelligence agencies. Shabir Shah was reviving and revitalizing what the Indian leaders and their puppets had presumably buried in the cold storage—the freedom struggle of Kashmir. The Indian Government realized that Kashmiri can no longer be duped, particularly when the militancy had spread throughout the State overpowering all the harshness and cruelty of the administration. Shabir Shah, the source of inspiration for all militant as well as political leaders, became a real threat to the Indian rule in Kashmir and highly hazardous person to reckon with. Consequently, his arrest became very vital for the Indian Government as well as for the state administration, though a hazardous task too.

After evading the arrest for 18 months Shabir Shah was arrested on 28 September, 1989 alongwith one of his close associates, Mohammad Nayeem Khan, at Ramban, while they were on their way to Jammu. His arrest was described as a major success by Farooq Abdullah and even Rajiv Gandhi, then Prime Minister of India, congratulated the State Government for what he described as ‘a major break-through’.¹⁹ However, the people of Kashmir considered it the greatest loss to their freedom struggle and everywhere people began to discuss how the most wanted political leader and underground supremo of Peoples Leagues was arrested.

The English daily, *The Kashmir Times*, reported the entire episode in these words : “With no one from the Government prepared to say anything about his arrest, a number of stories were told about the episode. One account said that the vehicle in which Shabir Shah and Nayeem Khan were travelling met with a minor accident near Ramban. The vehicle alongwith the passengers was taken to the nearby police station, a policeman who had seen Shabir Shah in the interrogation centre, when he was last arrested, recognised him and this led to his arrest. Another

story is that Shabir Shah was arrested on information given by one Gani Shah of Wanpooh village in Anantnag, at whose house he was supposed to stay for the night. According to this version the police had received information that Shabir Shah was visiting his house in Kadipora, Anantnag, and would later spend the night at Gani Shah's residence before leaving for Jammu. However, according to the reliable sources, Shabir Shah neither visited his home nor did he get to Wanpooh for night stay. Instead, he chose to undertake a night drive for Jammu and was arrested when Gani Shah reportedly told police about his programme. Yet another report said that Shabir Shah, alongwith two other militants boarded a Jammu bound truck, after the private vehicle in which he was travelling developed some mechanical defect. The truck was subjected to routine check near Ramban when a policeman, happening to be a Kashmiri, identified Shabir Shah and told his colleagues which led to his arrest."²⁰ The weekly *Chattan* (13-19 September 1989) stated that Shabir Shah affirmed that his arrest was due to one of his own close associates but did not disclose the name of the person. However, the paper stated, one of the Shabir Shah's friends Ghulam Hassan Teli was arrested and subsequently released in order to help the Government to arrest Shabir Shah. Teli was serving in Army and had resigned in order to join Peoples League. Teli was kidnapped by the militants on 31 October, 1989 for the above allegation and killed on the same date. In other press note Altaf Alamgir, Chief Commander of Muslim Janbaz Force, blamed Avtar Singh Khalisa for the arrest of Shabir Shah for which he allegedly got 3.5 lacs from CBI. He was killed on 28 December, 1991 at Jammu and was allegedly held responsible for Shabir Shah's arrest.

Shabir Shah's arrest set into motion a chain of violent protests throughout the State. The Valley, as well as the Muslim dominating areas of Jammu and Ladakh regions, observed a complete Hartal for seven consecutive days,

during which all offices, business establishments and educational institutions remained closed. Large scale demonstrations were held in the Valley and at least six people died due to the violence of Indian Paramilitary Forces. Immediately after his arrest, his sister Mrs. Hassina Dawood filed a petition under No. 310/89/U/S 491-A Cr P.C. before the Hon'ble High Court for ascertaining the whereabouts of Shabir Shah which was listed for orders on 11 October 1989.²¹ Another writ petition No. 309/89 was filed in the High Court by Lawyer's Public Interest Forum, Srinagar which came to be listed for orders before the single bench on 17 October. In these writ petitions a CMP was filed in order to get direction from the Court to examine Shabir Shah, by a team of doctors comprising Dr. B.A. Wani (Head Department of Cordiology), Dr. G.H. Malik (Nephrologist), Dr. A.M. Wani (General Surgeon) and Dr. S.K. Thassin (Assistant Professor, Medicine). The team, under court orders, examined Shabir Shah on 15 February 1990 and submitted his health report to the Hon'ble High Court, at Srinagar, on 20 February 1990.

Shabir Shah and Nayeem Khan were interrogated by a joint interrogation team at Hari Nivas Interrogation Centre and shifted (on November 1989) to District Jail Udampur. Subsequently, in March 1990 he was taken to the most notorious Central Jail of Jodhpur, Rajasthan, where he was often paraded bare-footed and naked for two hours a day on the burning sand temperatures reaching 110°C. His body, skin and feet have been badly damaged due to the inhuman torture he met at Jodhpur Jail. Neither his relatives and friends, nor his attorney were allowed to visit him for eight months and when, after a great difficulty, his sister Mrs. Hassina Dawood and his brother managed to get the permission to see their brother in Tihar they found Shabir Shah dressed in dirty rags because for months together the Jail authorities had not permitted him to change his dress or even take a bath. From Jodhpur he

was shifted to Central Jail Tehar, the most infamous jail in which Mr. Maqbool Bhat was hanged and buried.²²

During this period a number of organisations in Jammu and Kashmir like JKLF, Jamat-i-Islami, Jamat-u-Tulaba, Islamic Students League were declared unlawful by the Government, under Criminal Law Amendment Act 1983. Even Peoples League was declared unlawful under SRO 150-1614/1990 and immediately a tribunal was constituted under SRO 200, dated 11-6-1990 comprising the following District and Session Judges : Justice G.D. Sharma (Chairman), Sardar H.S. Behari (Member) and Mr. Harbans Lal (Member). The tribunal held its sittings in New Secretariat Jammu and thereafter issued the notice to all the banned organisations. Mr. Shabir Shah too was summoned by the tribunal. After some notices were issued to him through Central Jail Tihar, on March 1991, he in response filed a written statement before the tribunal but, at the same time declined to participate in its future proceedings.²³ After this the tribunal had no alternative but to proceed in exparte against him on 28 March, 1991 and confirm the orders of the Government.²⁴

Mr. Shah was brought to Jammu Central Jail on 9 November, 1992 by the State police authorities under heavy security from Mehrauli. He was lodged in the Central Jail Jammu till the orders for his release from detention under Public Safety Act were issued on 11 November, 1992 only to be re-arrested again by the state police. Shabir Shah was released and re-arrested in the Jail premises itself, after the expiry of his detention under the Public Safety Act on 11 November, 1992. "According to the reliable sources", writes *The Kashmir Times*, 'Mr. Shah was taken into custody by the intelligence sleuths within minutes of his release from the Central Jail Jammu. He was immediately whisked away to the joint interrogation centre from the Jail premises in a special vehicle of the police department.' The paper further stated: "The sources said that the arrest of Peoples League Supremo

was made in connection with the cases already registered against him under the Terrorist and Disruptive Activities (Prevention) Act for his alleged involvement in the terrorist activities in Jammu region and Kashmir valley as well."²⁵ For sometime Shabir Shah was held in the Judicial custody, for two months, in order to legalize his subsequent detention.²⁶

NOTES AND REFERENCES

1. For details see Shabnam Qayoom, Vol. IV PP. 249—257.
2. See Appendix II (Grounds of Detention).
3. For details see Alastair Lamb, pp. 288—294 ; Also see R. Sisson and L.E. Rose, *War and Secession : Pakistan, India and the Creation of Bangladesh*, (California, 1990).
4. Alastair Lamb, PP. 290—91.
5. Shabmam Qayoom, Vol IV, P. 357.
6. See Grounds of Detention in Appendix III.
7. See AIR 1980 Supreme Court 494 ; In order to bring out the nature of the allegations levelled against Shabir Shah I have given the main text of the Supreme Court's decision in Appendix IV.
8. See Appendix V.
9. See Appendix VI.
10. See Appendix VII.
11. See Appendix VIII.
12. *India Today*, 30 April 1989, P. 27.
13. *The Kashmir Times*, dated 7-4-1989.
14. See *Srinagar Times*, dated : 12-4-1989 ; *Shuhaab* dated 27-4-1989.; *Daily Azan* dated 12-4-1989.
15. *India Today*, dated 30 April, 1989.
16. *Shuhaab* dated 14-4-1989
17. See appendix IX.

18. Originally written in *Anand Bazar Patrika* quoted in the *Weekly Chattan* dated 9-10-1989.
19. *Srinagar Flash* dated January 28-4, February 1993.
20. *The Kashmir Times* dated 29 September, 1989.
21. See Appendix X.
22. For details see Write Petition (Criminal) No. 1842-51 of 1990 in the Supreme Court of India, particularly the affidavit submitted by Mohammad Sayeed Shah given in Appendix XI.
23. See Appendix XII.
24. See the J & K Government Gazette No. 10, 4 June 1992, 14th Tyai, PP. 214.
25. *The Kashmir Times* dated 12 November, 1992.
26. On 18 June 1994, Shabir Shah is believed to have completed 20 years of his life in prisons and interrogation centres. (See Appendix XVI and XVIII).



CHAPTER IV

SECESSIONIST OR PATRIOT

*"Honour and shame from no condition arise,
Act well your part there all the honour lies"*

—Alexander Pope

Very few people can claim to have spent their life in accordance with the dictates of their conscience, or to have preferred 'a selfless existence' to the luxuriant pursuit of material comforts. It is not easy to give up ambition and comfort in order to satisfy the demands of pure conscience which most often does not agree with the shape that events take. Yet there have been individuals who, during the tumultuous and often hazardous course of their lives, have exhibited strong will and determination in struggling for a noble and pious cause. About such people Iqbal says :

نخن دل نوشیدن و هموار خندان زیستن
نیست کارے ہر کسے این شیوہ مخصوص مامت

Though many may disagree with the point of view and philosophy of such great souls, very selected few can argue that they do not hold in esteem those who dedicate their lives to the dictates of "the voice from within"—a voice that often cuts across all barriers and even transcends the legal parameters of the local laws.

The life of Shabir Ahmad Shah too is a unique example of the unambiguous pursuit of what 'the voice from within' has taught him to follow. "His commitment to the ideals of peace and non-violence are acknowledged everywhere", Writes *The Greater Kashmir*, and the paper adds

further: "Though this prisoner has suffered physically and mentally at the hands of his interrogators, yet his commitment to non-violence has been so deep-rooted that instead of giving up the non-violent pursuit of supporting and defending his country, and its interests, he prefers to suffer the hardships inflicted upon him by his tormentors."¹ After going through intermittent incarceration and interrogation in a number of prisons, interrogation centres and police lock-ups for a period of 20 years the world ultimately realized the greatness of this patriot and political leader of Kashmiris. There has been world-wide concern over the deteriorating health of this 'prisoner of conscience', it is reported that besides multiple complications he suffers from permanent damage to one of his kidneys and one of his ear-drums. There is nothing against him that could have "warranted his perpetual detention except that he refuses to compromise on his perception of history. It is unfortunate that despite the stature of this person, which has by now outgrown the four-walls of the prison where he is lodged, the Government does not come out of its ivory tower".² Today when the Government has involved him in a case registered under sections 3/4 Terrorist and Disruptionist Prevention Act, 120B, 153-A of Rambir Penal Code and under section 3 of Energy Agents Ordinance, the Indian rulers, in an attempt to defame his reputation, propagate that "he himself wishes to remain in detention for his own safety."³ The Government of India is hiding the fact that the offences levelled against him before the Designated Court at Jammu, which is meant to try the cases arising out of TADA, are non-bailable and carry an imprisonment upto ten years. Keeping in view his dedication and determination, as well as the mass support he enjoys in Jammu and Kashmir, the Government of India is apprehensive, and very rightly so, that "in the release of Mr. Shabir Ahmad Shah the people of Kashmir will find a rallying point and they will rise in revolt under his leadership for achieving the goal of right of self-determination, a right

promised to them by the Governments of India and Pakistan before the UN Security Council.⁴ No accusations of subversion or instigating terror are believed by the world community against this silent sufferer : he is on record to have time and again stressed that—

I am not involved in any militancy and when it started I was in prison”,⁵ or “the recourse to arms by youth of the State has been an extreme step forced on them since their voice has gone unheard for more than four decades now.”⁶

Presently, when Shabir Shah is in solitary confinement at Jammu and on 18th June, 1994 completed his 20 years of imprisonment in different jails of India and Jammu and Kashmir, the question emerges ‘whether he is a secessionist as the Government of India claims or a true leader of Kashmiris,’ who have been struggling for their right of self-determination. The Government has issued a number of grounds of detention (given in appendices) against Shabir Shah and the main argument given in these (except the one presented in TADA Court) is that he belongs to the Association “Peoples League” which is preaching, propagating and advocating the following feelings, theories, ideologies, cults and claims :

- (i) The “Peoples League” stands for the right of self-determination for the right of Kashmiris.
- (ii) That the future of the Kashmir can only be decided by the people and none else.
- (iii) That the past assurances given by the Political leaders of India from time to time regarding a fair and impartial plebiscite have not been fulfilled and must be carried out.
- (iv) That the accession of Kashmir with India is only provisional and, therefore, Kashmir cannot be said to be an integral part of India.

- (v) The Peoples League had been carrying propaganda which was spreading communal hatred in the State. Its activities and actions had an objective which was likely to threat or disrupt harmony between different religious groups of the State. Fear-alarm and feelings of insecurity amongst different religious groups and communities in the State was likely to be caused and in some cases many have been caused. Its aim is also to earn the odium of the people in general against the established Government by levelling unsubstantiated charges of oppression and excesses, which adversely result in the interference with the public administration, administration of law and the maintenance of public order. Furthermore, by exhorting the public to observe frequent hartals and impose civil curfews, the Association had been interfering with the maintenance of supplies and services essential to the life of the people at large".⁷

On these grounds the Government, vide notification No. SRO-150 dated 16-4-1990 declared Peoples League an unlawful association along with other organisations like Jamat-i-Islami, Jamiat-u-Tulba, Islamic Students League, Jammu and Kashmir Liberation Front, Mahazi Azadi, and Falahi-Aam-Trust. All these organizations have been struggling for the right of self-determination, a right promised to the people of Kashmir by the Governments of India and Pakistan before the UN Security Council. For demanding their birth right the workers of these parties had to suffer incarceration, from time to time, and face the gruesome interrogations and tortures. The political leaders who from time to time were incarcerated along with Shabir Shah are : Nazir Ahmad Wani, Fazal Haq Qureshi, M. Farooq Rehmani, S. Hamid (Peoples League); Mohammad Azam Inquillabi, Ghulam Rasool Zahgeer, Bashir Ahmad Bhat (Mahazi Azadi) ; Syed Ali Shah Geelani, Mohammad Ashraf Sahrai, Ghulam Nabi Hagroo,

Sheikh Ghulam Hassan (Jammāt-i-Islāmī); Professor Abdul Gani, Dr. Ghulam Qadir Wani (MUF); Molvi Mohammad Abbas Ansari; Sheikh Tajamul Islam (Jami' at-u-tulba).

Even today there are thousands of Kashmiris who, like Shabir Shah, are languishing in jails and interrogation centres waiting for trials that presumably are never going to take place. All these young and old, men and women are lodged in jails and projected either as 'secessionists' or 'misguided and waylaid'. However, what appears to be their only fault is that they have revolted against a system and agitated against a course of history in which they were promised participation but never actually allowed to question or genuinely criticise. It is a sordid tale of unfulfilled promises and gross betrayals which makes it essential, at this crucial period of history when the entire world is aspiring for peace, to make an honest appraisal and find out as to from which side has the betrayal taken place. Who has denied genuine rights to those who were given guarantees and publically voiced promises that the future belonged to the people and that they alone would sit to decide their destinies. If Shabir Shah reminds the Government of India their promise to grant the people of Kashmir the right of self-determination he is not to be labelled as a 'secessionist' but a true representative of 12 million Kashmiris and, above all, a man of conscience.

It is a well known fact that for last four decades "the anti-Indian, pro-Pakistani, fundamentalist epithets have been politically convenient labels to brand all opposition in Kashmir, whether it stemmed from student unrest against rigged entrance exams, popular against corruption, or demonstrations against blatantly unfair electoral practices".⁸ It is absolutely a bizarre attempt to link the insurgency in Kashmir with the 'Hindutva backlash', the 'fundamentalist Islamic revival in the world', or with the article 370 of the Indian Constitution, as some writers and opinion-makers have disingenuously sought. It is purely a political problem, a problem of 12 million living human

beings who want to retain the dignity and grace that has been snatched away from them, and moreover, who want to decide their own future rather than suffer a life of subjugation as they have been doing for last 46 years. There is some truth in the argument of Jagdish Yadav that "Pandit Nehru promised Kashmiris the right of plebiscite sure of the fact that nobody would choose Pakistan to India"⁹ but today, after witnessing the gruesome murders and large-scale genocide committed by Indian paramilitary force in Kashmir, it is unlikely that "left to themselves, the Kashmiris would not choose Pakistan. But that does not mean they would opt for India either".¹⁰ No one can deny the fact that there were reasons enough for Kashmiris to fulminate and revolt against India. The Indian Government and its leaders have never had a clear and stable policy towards Jammu and Kashmir State and have often preferred to let it burn a little in order to play the Pakistan card whenever convenient. They have run the State from Delhi through the toppling game—support Sheikh Abdullah, then drop him and imprison all the leaders of the movement; pop up Bakshi Ghulam Mohammad then damp him; support G.M. Sadiq as a strong administrator then destabilise his government; shake hands with Sheikh and then destabilise him; bring on Farooq Abdullah and topple him; ease in G.M. Shah, then dismiss him; once again shake hands with Farooq, fight what is most widely denounced election in the State and, in the process, alienate the people completely. Even these unpopular and self-centred politicians of Jammu and Kashmir persistently invoked this fear of 'secessionist and anti-Indian' tendency of Kashmiris to convince the Centre that they are the saviours of secularism and national integrity, and must be supported at all costs. Since it is a Muslim majority state tagged with Indian Union, the people of India are easily convinced that if Kashmiris take to the streets to air their political or social grievances, they are demanding Pakistan or asserting fundamentalist convictions and must, therefore, be bullied into submission by force or controlled by the Centre through

puppet administration and paramilitary forces, though it may deprive bread and butter from an average Indian. The average Kashmiri too was led to believe, during the past 46 years, that India, while subsidizing unpopular Governments and looking the other side when elections are rigged and innocent people are crushed by levelling against them false allegations, does so because India is a communal aberration and they will be given their rights in Muslim-majority Pakistan. Even the veteran Indian journalist Inder Malhotra pointed out once :

With what face can we ask the world community to first deplore and then deter Pakistan's brazen help to the merchants of terror and secession in Kashmir and Punjab if we allow ourselves to slur over similar misdeeds.¹¹

Keeping these vital and obvious facts in view Shabir Shah always reiterated :

ہم نے نام نہاد الیکشنوں اور اسمبلیوں کو رد کر کے نہ جھکنے اور نہ ہلکنے کا عزم کیا ہے کشمیری عوام گرم لہو سے تاریخ رقم کر رہے ہیں۔

(We outrightly reject fake elections and false assemblies and are firm in our conviction—not to be subjugated or sold. Kashmiris are writing history with their own warm blood).¹²

ظلم و ستم سے کسی بھی قوم کو صفحہ ہستی سے مٹایا نہیں جاسکتا۔

(Force and barbarism cannot wipe out a race from the world). Similarly he affirmed his convictions saying,

ہم ایسے حالات پیدا کرنے کے حق میں ہیں کہ بھارت کشمیر سے نکل جائے صرف بھارت اور پاکستان ہی مسئلے کو حل نہیں کر سکتے کشمیر کا مسئلہ تب تک حل نہیں ہو سکتا جب تک کشمیری عوام کو فریقہ نہ بنایا جائے۔

(I favour creating an atmosphere which will force India to Quit Kashmir. India and Pakistan alone can not solve Kashmir problem. Kashmir problem can not be solved unless Kashmiris themselves are considered a party) and "I am against any kind of violence and terrorism but I would favour creating an atmosphere which would force India to leave Kashmir."¹³

Every Kashmiri, including those who had been participating in the fake elections, realized the authenticity of Shabir Shah's words and acknowledged his far-sightedness when Indian democracy got exposed in Kashmir in 1987 elections. The mass support given to Shabir can be realized from the public response to the 'Hartal Call' given by him on 18 September, 1989—the first death anniversary of Late Aijaz Ahmad Dar. While giving the details *The Kashmir Times* wrote :

Such was the impact of the hartal call today that cinema halls, way-side eating shops and similar other smaller establishments did not open. Shops in outlying pockets of Srinagar were also closed.... Reports from district head-quarters of Anantnag and Baramulla as also from the major towns like Pattan, Bandipora and Sopore in north Kashmir and Bijbehara and Mattan in south Kashmir said that complete hartal was observed there with shops and commercial establishments remaining closed for the day. Attendance in Government offices was also thin as most of the employees preferred to stay indoors in view of tense situation. Barring some incidents of stone pelting in some parts of Anantnag town, no untoward incident was reported from any part of Valley.¹⁴

People of Kashmir love him and the Kashmiri youth are ready to sacrifice each drop of blood for the noble and pious cause for which Shabir Shah suffered incarceration and

torture for 20 years and lost his father who was killed in police custody.

In spite of the Government attempts to allegedly involve him in a number of offences and thereby brand him as a terrorist or secessionist, the people of Kashmir eulogize him as one of their greatest leaders, a patriot and true son of the soil. They willingly offer sacrifices when Shabir is ill and pray for his health and welfare in Mosques and congregations. This mass support and allegiance to cause is mainly responsible for the fact that Shabir Shah neither wanted his case to be represented through legal State Aid Committee, nor claimed any compensation for going to Jail in pursuance of his political activities. He has been fighting for a cause and his inner conscience always prompts him to pursue his mission and reiterate what Hector Gros Espiell states in his study *Self-determination in UN* :

If beneath the guise of ostensible national unity, colonial and alien domination does in fact exist, whatever legal formula may be used in an attempt to conceal it, the right of the subjected people concerned can not be disregarded with international law being violated.

Even the Supreme Court of India states —

The expressions 'Law and Order', 'public order' and 'security of the State' are distinct concepts though not always separate. Whereas every breach of peace may amount to disturbance of law and order, every such breach does not amount to disturbance of public order. (See Appendix IV)

What the people of Kashmir think about Shabir Shah and his role in the freedom struggle of Kashmir, and what

is their reaction towards the charges levelled against him by the Government can be judged from the following remarks :

- ☞ “Shabir Shah is not a terrorist but a political leader. The credit of the present mass movement goes to him. In spite of his long imprisonments he did not change his stand and demanded the right of self-determination for the people of Jammu and Kashmir. There is no disparity between his words and deeds.”

(Sayeed Ali Shah Geelani at a public Congregation at Hazratbal on 8 May, 1992)¹⁵

- ☞ “Shabir Shah is neither a terrorist, nor a secessionist but a great political leader. We respect him and his untimely arrest at this critical juncture is very crucial. However, it won't dishearten the youth who have launched the freedom struggle in Kashmir.”

(Sheikh Abdul Hamid, JKLF, on the eve of Shabir Shah's arrest)¹⁶

- ☞ “Shabir Shah is our source of inspiration and a true guide for all the freedom loving youth of Kashmir.”

(Mushtaq Ahmad Zargar, on 6 October, 1989)¹⁷

- ☞ “Shabir-Shah is one of those Kashmiri Youth who willingly sacrifice their lives for the freedom of their country rather than succumb to the pressures of the Government. Shabir Shah, a prisoner of conscience, is an embodiment of self-determination, courage, generosity and dedication—a person whom no power on earth could either crush or subjugate. Even in prison cells and interrogation centres he kept burning the candle of freedom and became a source of inspiration, as well as courage, for his co-prisoners. He dedicated his life to the cause of

awakening the people of Kashmir from a prolonged slumber into which they had been lulled by self-centred politicians and alien forces.”

(*Molvi Abbas Hussain Ansari*)

- ☞ “In Jail he has always been a ‘godfather’ for teenagers like me. Whosoever meets Shabir Shah, just once, becomes his fan for ever.”

(*Javeed Ahmad Mir, JKLF*)¹⁸

- ☞ “In his childhood I did everything to dissuade him from his political aspirations. We had mutual difference as he did not like my participating in the State Assembly elections. However, he ultimately proved to be my guru.”

(*Mohammad Sayeed Shah, MLA Anantnag*)¹⁹

- ☞ “The events and incidents that took place in the Valley and in Doda district of Jammu province, after the arrest of Peoples League Supremo, Shabir Ahmad Shah, are sufficient hints for the Government of India. If the Government does not learn lessons from it, then it will be most unfortunate for the people of the state as well as for the entire country.”

(*Editorial, Srinagar Times*)²⁰

- ☞ “Shabir Shah was very witty, clever and obedient teenager. These traits elevated him in the party circles.”

(*A.R. Dar, President Youngmens League*).

- ☞ “Speaking on all party condolence meeting held at Srinagar to mourn the gruesome killing of the Bharatiya, Janata Party leader, Tikka Lal Taploo, Mr. A.N. Vashnavi, President Shri Sanatam Dharam Yuvak Sabha, who presided over the meeting, asked the underground Peoples League leader Shabir Shah to sever his relations with the militants as they had not kept their promise of not touching the minority community. Describing Shabir Shah as one of his students during school

days, Mr. Vaishnavi said that "Shabir Shah has repeatedly assured that his supporters had nothing against the minorities and they would be given due protection." *(The Kashmir Times)*²¹

☛ "Shabir Shah is a man with towering personality and original genius."

(Nayeem Ahmad Khan, Peoples League)²²

Shabir A. Shah

A towering symbol of truth and justice
of constant struggle

A light in darkness for the oppressed and
tortured and damned people of Kashmir

A voice that shatters through the walls of
imprisonment to rekindle our hopes, our
dreams the world now addressed you as a
Prisoner of Conscience

You represent *Kashmir*,
Her people and the aspirations for freedom
you speak our voice

We are all prisoners of conscience with you.

*(Jammu Kashmir Students Union)*²³

☛ According to (Late) M. Maqbool Bhat

I know only Shabir Shah would have done
this. He is a hope of Kashmir.

(Greater Kashmir 27 Sept. 1993)

While talking of Shabir Shah, Mr. Romesh C. Pathak, advocate Supreme Court of India writes :

We came to know him as fighter against exploitation of poor and downtrodden. His impeccable character, his love and affection for children, regard for the elders and ever smiling face won heart of all of us. His sparkling eyes with full confidence and

determination, and urge to do something for his community gives a soothing and affectionate feelings to those who come into his contact..... I have found Mr. Shah performing untiring service to his fellow prisoners. He is friend of all and enemy to none. His smile and humbleness makes a destitute, confident and fresh ... His concern for fellow prisoners is such that if friends or relatives get him new clothes on finding him in old and worn out clothes, on the next visit, the visitors may find him in the same old clothes and same smiling face amongst the prisoners with new clothes on them.

(Greater Kashmir 27 Sept. 1993)

Early in 1993 the Amnesty International conferred on Shabir Shah the title of 'a prisoner of conscience' in recognition of his dedication to a noble cause and for his persistent suffering for demanding a peaceful settlement of the Kashmir problem in accordance with the aspirations of 12 million people of Jammu and Kashmir. Soon after the announcement the Western media gave a wide publicity to this vital decision of the Amnesty and the Domestic Television London telecasted a special programme on the life and convictions of Shabir Ahmad Shah. On 26 April 1993, the Jammu and Kashmir Students Organisation held a symposium on "Prisoner of Conscience and Kashmir Problem" in the University of Kashmir, Srinagar in which a number of distinguished teachers, scholars and students expressed their views about Shabir Shah's role in the freedom struggle of Kashmir. I present below the excerpts of the speeches of some of the learned speakers in order to bring out clearly what the intellectual elite think about the Kashmir problem and Shabir Shah.

Professor Margoob Banhali, who presided over the function said :

شبیر شاہ نے اپنے نام کا حق ادا کر دیا۔ وہ ایک تاریخ ساز شخصیت ہے۔ وہ ہمارے محسن ہیں۔ انھوں نے جب راہِ حق پر اپنا سفر شروع کیا تھا تو تنہا تھے لیکن آج پوری قوم محسن شناسی کا حق ادا کرتے ہوئے ان کے قدم سے قدم ملا کر چل رہی ہے۔

(Shabir did, what was expected of this name. He is an historical figure and our benefactor. When he started his struggle for a noble cause he was almost lonely but today the entire nation is with him, acknowledging the greatness of their benefactor”²⁴

Professor Mohammad Zaman Azurda, Head, Department of Urdu and Dean, Faculty of Arts, University of Kashmir, said :

ضمیر قدرت کی جانب سے عطا کی گئی ایک ایسی قوت ہے جو انسان کو صدائے حق بلند کرنے کی ترغیب دیتی ہے شبیر شاہ نے ضمیر کی آواز پر لبیک کہہ کر صداقت کے پُر خار راستوں کا عزم سفر باندھ کر اپنی عظمت کا ثبوت دیا۔

(Conscience is a God-given gift, an instinct that prompts one to struggle for truth and righteousness. Shabir Shah acted in accordance with the dictates of his conscience and exhibited will and determination in facing all the hazards.)

The statements of other speakers are given below :

- ☞ “It is indeed an uncommon honour on two counts. First it is symbolical : since Shabir Shah represents the oppressed Kashmiris, all of us have been declared prisoners of conscience in his being declared ‘a prisoner of Conscience’. Secondly, and more importantly, the recognition has come from the West whose double standards were never so obvious as they are now from their reaction to the Gulf

crisis and the way they are responding to the situation in Bosnia, Palestine and Kashmir.”

(Prof. G.R. Malik, Head, Department of English)

- ☞ “Sacrifice, thy name is Shabir,
Determination, thy name is Shabir
Persistent struggle, thy name is Shabir

Shabir is an embodiment of peace and he wants peace in the entire sub-continent for which an everlasting solution of the Kashmir problem is a pre-requisite.”

(Prof. A.A. Wani, Dean, Faculty of Law)

- ☞ “The honour that has been bestowed upon Shabir Shah does not only invest him with an international recognition as one of the leading freedom fighters of the contemporary world, but more so, it has further stamped the legitimacy to the Kashmiris struggle for freedom. After all, Mr. Shabir has been endowed with this honour for braving the roughest weather in his mission of forcing the Indian Government to fulfil its promises and to give them the right which it owes to them..... This young leadership not only revived the Movement which had been going on in Kashmir since 1947 but infused a new vigour into it.”

*(Dr. M. Ashraf Wani, President,
Kashmir University Teachers Association).*

- ☞ “The prisoner of Conscience is the entitlement of Amnesty International to a person who has suffered imprisonments, humiliations, trials and tribulation for the sake of his conscience. The person has the courage of his convictions and refuses to cow-down before the State terrorism or group intimidation. Shabir Shah has been honoured with this title for his long incarceration.... By declaring Shabir Shah the ‘Prisoner of Conscience’ our freedom movement has been declared legitimate.”

*(Prof. G.M. Shah, Head, Department of
Political Science)*

- ☞ “Shabir Shah is one of those few who doggedly pursue the dictates of conscience to liberate the soul and the mind of his people from the oppressive domination, no matter what trials of glory or shattered hearts are left behind in the turbulent wake. It has been his goal to change the course of history, to rewrite and reinterpret it not by remaining either a mere victim or witness of history but by actively participating in the historical process. The model before him has been none other than the Prophet of Islam (PBUH) who is the greatest world historical personality even by secular standards.”

(Miss Hamida Bano, Lecturer, Department of English)

- ☞ “Shabir Shah is our national leader. We are all prisoner of Conscience.”

(Dr. S.M. Afzal Qadiri, Dean Students Welfare, Kashmir University)

- ☞ “Shabir Shah awakened Kashmiris from the slumber of slavery. Amnesty International, by declaring him ‘Prisoner of Conscience’ has declared Shabir’s stand legitimate.”

(Mr. Athar, President, Kashmir University Research Scholar Association)

Earlier Mr. Herbert Otto, a human rights activist of Germany, in a letter dated 16 October, 1991, wrote to Jammu and Kashmir High Court Bar Association (Kashmir) to furnish him with the details about Shabir Shah so that he could plead his case before the world organisations, particularly the Amnesty International. The Bar Association, while furnishing the details, stated :

Mr. Shabir Shah is loved and respected by his people since he is their hope and has truly been representing them. The people of

Kashmir speak through his voice who stands for the right of self-determination from his childhood and in the demand of this right he has so far remained in Jail. He has never been tried in any Court of Law nor a charge sheet was ever brought against him. He was either arrested or detained for a long period under Preventive Detention Act, Defence of Indian Rule, Public Safety Act, or National Security Act. He was lastly arrested on 28th of September, 1989 at Ramban while on his way to Jammu. Both Shabir Shah and Nayeem Khan (who was arrested with him) were interrogated by a joint interrogation centre at the Hari Niwas Interrogation Centre, and then he was shifted to Udhampur Jail, Jodhpur Jail, Tihar Jail (Delhi) and after a period of two years was simultaneously rearrested under Section 3/4 TADA and is continuing in custody in Jammu Central Jail. A charge sheet has now been filed against him in the Court of special judge, Jammu in the aforesaid offences. The challan (final Charge Sheet) so produced is at a preliminary stage and the Court has not charged him for the said offences. The said offences envisage an armed struggle against the State Government which is totally against the known beliefs of Mr. Shah.²⁵

Shabir Shah's prolonged detention attracted the attention of various human rights organisations all over the world, particularly the London based Kashmir Council for Human Rights. Its Chairman Mr. Farooq Kathwari played a very vital part in bringing in the lime-light the sad plight of Kashmiris and of their beloved leader Shabir Ahmad Shah. Writing to the Amnesty International he stated, "Shabir Shah's life of dedication and incarceration for the

cause of freedom and human rights of Kashmiris exemplifies the tragic situation of the denial of basic freedoms in Kashmir.”²⁶ It was due to the efforts of various human rights organisations that the Amnesty declared Shabir Shah “a Prisoner of Conscience” giving thereby a legitimacy to the freedom struggle of Kashmir. Even the *Times of India* wrote in November, 1992, “New Delhi, November 21, Mr. Ian Martin, former Secretary of Amnesty International, heading a four-member team to India, today said that he had urged the Government to release Mr. Shabir Ahmad Shah of Kashmir, whom he described as a ‘Prisoner of Conscience’. According to Mr. Martin the Government has promised to look into the matter.”²⁷

On 18 June, 1994 Shabir Shah completed 20 years of his imprisonment and the day was celebrated all over the world. London based human rights group, Council for Human Rights, of which the British Parliamentarian, Lord Ivory, is also a member “started a ‘prisoners of conscience week’ to highlight the ‘plight of Kashmiri prisoners’ in general and that of Shabir Ahmad Shah in particular.”²⁸ Earlier, it is believed that Council’s present Chairman, Dr. Mehraj-ud-Din Mattoo read out Shabir Shah’s message at the human rights Conference held at Vienna in which Mr. Shah had appealed all the civilised nations of the world to support the cause of Kashmiris and pressurize India to stop its para-military forces from committing atrocities in Kashmir (See the Appeal at the end of this book). Conferences and seminars to demand the release of Shabir Shah were held not only in London and New York but also in Australia, Saudia Arabia and ‘Azad Kashmir’ in which Dr. Mohammad Yusuf Khan, Mr. Mohammad Hussain and Irshad Ahmad Malik were the chief guests.²⁹ The English daily *Greater Kashmir* reported on 19 June, 1993 :

“In Muzafarabad, capital of ‘Azad Kashmir’ Prime Minister Sardar Qayoom Khan was the chief guest at Muzafarabad Press Club, where a meeting was

held today to pay rich tributes to the detained leader of Peoples League Shabir Ahmad Shah.... Another meeting to laud the contribution of Shabir Shah was held at Peoples League Office in Muzafarabad. The meeting was attended by the representatives of JKLF, Al-barq, Mahaz-i-Azadi, Muslim Conference, Anjuman-i-Tulba Islami, Liberation League besides Peoples League. All the speakers paid glorious tributes to Shabir Shah for his contribution towards the ongoing freedom movement."

Since Council for Human Rights (London) had appealed to Kashmiris to register strong protest against India on 19 June 1993, a complete shut down was observed in the entire Valley. All the Government and semi-Government offices remained closed as the employees stayed off from their respective offices. Even the shops and business establishments remain closed. The Jammu Kashmir Students Organisation organised a demonstration in Srinagar and other major towns of the Valley demanding the release of Shabir Shah, whom they described as not the leader of Peoples League only but of the entire Kashmiri nation. The news paper reports stated :

In spite of the tight security arrangements people shouted, "We want freedom", "Shabir Shah Zindabad" in various mosques across the Valley after Friday congregations... In Jamia-Masjid, the Srinagar's main mosque, Mirwaiz Umer Farooq deplored the 'Indian repression' and paid rich tributes to Shabir Ahmad Shah, who completed his 19 years in detention today. Mirwaiz hailed the efforts of Lord Ivory and other members of Kashmir Council of Human Rights.... for pleading the genuine Kashmir Cause.³⁰

Even on 18 June, 1994 the Human Rights Organisation, Jammu and Kashmir celebrated the twentieth year of Shabir Shah's imprisonment. It organised a symposium on the Human Rights violation in Jammu and Kashmir in which speakers from all parts of the State and belonging to different fields and professions expressed their grave concern over the mass killings by Indian forces and appealed the world to force India and Pakistan to solve the Kashmir problem. Such seminars and symposia were held all over the world in order to show solidarity with the goal and mission of Shabir Shah—the beloved leader of the people of Jammu and Kashmir.

NOTES AND REFERENCES

1. *Greater Kashmir*, 18 June 1993.
2. *Ibid.*
3. See Appendix XIII
4. *Ibid.*
5. *Weekly Chattan*, 9—15 October 1989.
6. *Greater Kashmir* 18 June 1993 ; See also *Nation* March-April 1992, *Weekly Global Topic* Nov. 20-27, 1990 P. 8 ; *The Kashmir Times* 19 September 1989 *India Today* 30 September 1989.
7. See J & K Government Gazette No. 10, 4 June, 92/14 Jyai, 1914 P. 112; See also the Appendix XIV.
8. *India Today* 30 September 1989, P. 11.
9. *Sunday*, 2—8 February 1992, P. 32.
10. *Ibid.*
11. *Ibid.* P. 26.
12. *Weekly Almurkhtar* 28 Sep., 5 Oct., 1992.
13. *Nation* March-April (5—11) 1992, *Weekly Chattan*, Oct., 1992.
14. *The Kashmir Times*, 19 September 1989.
15. *Daily Aftab*, 9 May, 1992
16. *Almurkhtar*, (Shabir Number) 28 Sept., 1992.

17. *Ibid.*
18. *Ibid.*
19. *Ibid.*
20. *Srinagar Times*, 5 October, 1989.
21. *The Kashmir Times* 17, September 1989.
22. *Srinagar Flash* 28 Jan., 4 Feb., 1993.
23. *Ibid.*
24. Most of these statements figured in Urdu daily *Mashriq*, 9 May, 1993.
25. Quoted in *Srinagar Flash* op. cit.
26. See Appendix I.
27. *Times of India* 22 November 1992, See Also daily *Aftab* 18 November 1992.
28. *Greater Kashmir* 19, June 1993.
29. *Srinagar Times*, 20 June 1993.
30. *Greater Kashmir* 19 June, 1993.



CHAPTER V

MAN OF CONSCIENCE

*"He opposed terrorism and all unfair
methods because of his own sense
of self-discipline and dignity"*
—Gazanfer

The only fault of this 'Jail Bird' and 'Prisoner of Conscience' is that he demands political, as well as, basic rights, for Kashmiris including their right of self-determination, a right promised to them by the Governments of India and Pakistan before the UN Security Council. Even today, when uprising has matured from hartals and demonstrations to militant encounters and armed retaliations, Shabir Shah reminds India its commitment to the holding of Plebiscite to decide about the future of Kashmiris. When gun reinforces its hegemony and the Indian paramilitary forces continue their atrocities and brutalities, he, though behind the bars, still believes in non-violent solution of the Kashmir Problem in accordance with the UN Resolutions. In order to hoodwink the public opinion and retain its illegal occupation of Jammu and Kashmir, the Government of India has spoiled the life of this non-violent political activist by putting him behind bars on fake charges and false allegations. He has been allegedly charged with 'violating the spirit of the land', "a threat to the security of India", "a secessionist", "a terrorist", "a subversive", "an anti-national element" and "a pro-Pakistani agent."¹ In fact, he is the true son of the soil and believes that "both India and Pakistan are obliged to withdraw their troops from Jammu and Kashmir, including Pak-occupied Kashmir, and hold Plebiscite under UN Supervision. Kashmiris are not fighting for the valley only (but) also for Jammu and Ladakh. I reject outright the

Dixon plan. We will never allow division of Kashmir into two.”²

There cannot be two opinions regarding his active role in mobilising the public opinion and prompting the youth against Indian occupancy of the State of Jammu and Kashmir. Through press notes and pamphlets, press conferences and speeches he persuaded the youth to fight for the right of self-determination at a time when the so-called conventional and senior leaders of Kashmir were either duped by the ‘secular and democratic’ claims of Indian leaders or merely succumbed to the pressures from within and without. History has witnessed very few leaders who epitomize personal sufferings for the sake of freedom, dignity and justice. Nelson Mandela, the king of South African blacks and the symbol of the aspirations of oppressed in the world fits in such a category of leaders who make sacrifices for the good of their people, community or class. Mahatma Gandhi, Pandit Jawahar Lal Nehru and Moulana Abdul Kalam Azad suffered a great deal for the people of India as did Qaid-i-Azam Mohammad Ali Jinnah and Liaquat Ali Khan for the people of Pakistan. The people of both these countries eulogize their respective leaders for fighting against the alien rule and also for liberating them from the foreign yoke—the British imperialism. Whereas Mahatma Gandhi, Mohammad Ali Jinnah and Nelson Mendela are honoured throughout the world as ‘Symbols of struggle’, Shabir Shah has been branded as a terrorist by the leaders of the so-called greatest democratic country. Even very recently the world has witnessed that Lacs of people gathered at “Wembley Stadium” in London to demand Nelson Mandela’s release to honour him as ‘Symbol of struggle’ and none except innocent Kashmiris seem anxious about Shabir Shah’s release, though what Mandela is to World, Gandhi is to India and Jinnah is to Pakistan, Shabir Shah is to Kashmir. His name is now synonymous with the struggle for basic rights of Kashmiris, his sufferings have been immense and

his sacrifices overwhelming. The dream of an independent Kashmir never gave him rest and in its pursuit he could not continue his studies, did not marry, lost his father and spent more than 20 years of his life in prisons and interrogation centres.

Shabir Shah became hero and gained tremendous public support soon after his father's death in police custody—an unsurpassed example of self-sacrifice in the history of freedom struggle of Kashmir. The riots that followed shot Shabir Shah into prominence and he soon emerged as the most influential Kashmiri leader, a hope for the millions of freedom loving Kashmiris who since 1947 have been subjugated by alien forces and betrayed by their own leaders. No doubt the Government arrested him in 1989 but the public response to the arrest made it abundantly clear that Shabir Shah is “the king of kings of liberation movement in Kashmir.” Even today his domination continues as every local child sings with praise “Shabir Shah, Shahan Shah”. Unaltered Shabir Shah continues to deliver his lessons of the freedom struggle from the Jail and his empathy with Kashmir still holds good as he condemns the innocent killings and burning of public property as well as frequent hartals and bandhs. “I am against any kind of violence and militancy but would favour creating an atmosphere which would force India to leave Kashmir” are the often repeated words of Shabir Shah, believed to be the mastermind behind the present uprising and militancy in Kashmir. As stated earlier, even before his dramatic arrest, with his associate Mohammad Nayeem Khan, near Ramban on Jammu Kashmir Highway on 28 September 1989, Shabir Shah literally dispirited the Indian Government and the local administration by “spearheading the liberation movement”, and by issuing pamphlets and press notes for propagating the right of self-determination as the only solution of Kashmir Problem. During this period, when he was underground for 18 months, he made many dramatic appearances, dogging

the police surveillance and talked to various press correspondents and press reporters about his policies and programmes regarding the freedom struggle in Kashmir : "All the organi-sations involved in the freedom struggle of Kashmir have unanimously decided to organise protests and demons-trations on all national days of India, be it 26 January or 15 August in order to give vent to our resentment against Indian dominance in the state. We are not against Indian people but we cannot share their happiness unless we ourselves are happy."⁴

Talking to Mr. Zafar Meraj, who was interviewing him for India Today, Shabir Shah reiterated his firm belief —

*We do not recognise Simla Agreement. We do not accept any solution to the Kashmir issue in which the people of Kashmir are not party.*⁵

He also made a dramatic appearance in the Srinagar Bureau of *Kashmir Times* and rejected outrightly the validity and authenticity of the Simla Agreement. He warned the Governments of India and Pakistan that no pact will be acceptable without the direct involvement of Kashmiris and both India and Pakistan are committed to hold a Plebiscite in Jammu and Kashmir in order to enable its 12 million inhabitants to either opt for India or Pakistan or remain independent. He also rejected the Dixon plan "as another devise to divide the people of Kashmir" and at the same time asserted that Kashmiris will never allow India or Pakistan to divide their beloved motherland into two parts. Instead, he proposed that both India and Pakistan should resolve their mutual disputes, including the Kashmir Problem, amicably and peacefully through a dialogue but added that the people of Jammu and Kashmir are to be involved in any such dialogue. "India and Pakistan are definitely parties to the issue, but the major party is the People of the State and without their active participation nothing can be achieved", he stated, adding that "on this

basis we have rejected the Simla Agreement as it was signed over our heads.”⁶ We believe in the supremacy of the people, says Shabir Shah, and expect from others, especially those who claim to be champions of democracy and guardians of democratic norms, not to ignore this reality while talking about Kashmir Problem. Talking to a correspondent of *The Kashmir Times* he said, “Kashmiris are fighting not only for the cause of the Valley but also for Jammu and Ladakh.” He requested the people of two regions “to join the movement in furtherance of their love for the entire Jammu and Kashmir, their country.”⁷

Shabir pledges to protest minorities : Such was the headline of *The Kashmir Times*, dated 6 June, 1989. The paper further stated : “Underground leader of Peoples League, Shabir Shah, has condemned the State Government and its agencies for spreading canards with regard to the secular credentials of the “freedom movement” launched by Kashmiri youth and creating an impression that the movement was against the non-muslims of the State.” Addressing a party meeting in Srinagar on 5 June 1989 he reiterated his conviction that “providing adequate protection to the minority community was the foremost task and duty of muslims of the valley as it was one of the fundamental principles of Islam.”⁸ He said that Kashmiri youth were engaged in Jihad (holy war) against Indian imperialism and they have no animosity with any particular community, as was the impression created by the Government through its paid agents for “maligning Kashmiri Muslims.”⁹ Similarly, while answering a question asked by R.C. Ganjoo, about the fate of Kashmiri Pandits and those Muslims who left the Valley Shabir Shah stated : “As far as Kashmiri Pandits are concerned they are in our possession and it is their right to save their lives and property. My heart bleeds when I read or come to know about the miserable condition of Kashmiri Pandits outside Kashmir.”¹⁰ Kashmiri Pandits too have a role to play in the freedom struggle of Jammu and Kashmir, said Shabir Shah, and

pointed out that "They have been playing into the hands of BJP or vested interests of their own community. Their houses are being burnt or looted, as reported, by so-called militants is shameful, they should certainly be punished."¹¹

For such a lucid and human approach Shabir Shah became the undisputed supremo of the present mass uprising in the State of Jammu and Kashmir. Presently, when hundreds of militant organisations operate demanding the right of self-determination and when the Kalashnikov culture has spread like epidemic, over-powering all the political parties and policies, Shabir Shah's words apparently seem to be losing weight. However, his personality, broadmindedness and popularity among the masses will certainly prove of great help towards the political settlement of Kashmir issue in accordance with the aspirations of the people of Kashmir. Only a leader of Shabir Shah's calibre and fame could say openly : "I condemn the killings of innocent Kashmiri Pandits or Muslims by militants. Just branding a person as an informer (Mukhbir) and killing him is not sufficient. Persons who are anti-movement should be thoroughly investigated and then punished."¹² Similarly, while paying rich tributes to the people of Kashmir for exhibiting remarkable courage and conviction and for withstanding all miseries and hardships during the last five years, while supporting the on-going freedom movement, Shabir Shah persistently warned those who are spearheading the movement. Talking to a press reporter he stated that those spearheading the movement should ensure that their every step was in right direction and that no one was unnecessarily harmed or subjected to any kind of hardship. "We should always bear in mind that might is never right but right always is the greatest might", he said and added further, "Let us forget the past affiliations. Let us close that chapter. From 1988 a new chapter in Kashmir's political history has been opened and, while writing its pages, let us not dig any body's past whatsoever that has been. We are all Kashmiris and part of the struggle

launched for the betterment of the people as a whole, for creating a set up in which everyone lives with respect and dignity and is not treated as a slave.”¹³ However, he was very keen to add that this amnesty would not extend to those who proved to be “traitors working against the movement.” Such elements, he still believes, “would have to be dealt with sternly and deserve no leniency.”¹⁴

Shabir Shah is neither a trained militant, nor does he believe in force and yet Muslim Janbaz Force, which subsequently merged with Al-Jehad, was very aptly believed to be the militant wing of Jammu and Kashmir Peoples League. Justifying that “the creation of Muslim Janbaz Force was necessary because we were forced to take arms”, Shabir Shah stated in an interview to *NATION*, “It is scientific approach to make Indian authorities realise and understand what they have failed to understand through the democratic means since 1947 that they are committed to grant the people of Jammu and Kashmir the right of self-determination.”¹⁵ Clarifying the remarks attributed to him by a local news agency “JNF” he said, “What I had told the JNF reporter was that recourse to gun was a compulsion and Kashmiris had taken guns when no other alternative was left to them.” He said : “Before taking to gun they had left no stone unturned to persuade both India and Pakistan to implement UN Resolution to solve the Kashmir Dispute.” Referring to Pakistan’s agreement to “implement the UN Resolutions when Mr. Nawaz Sharief, Pakistan Prime Minister, and Mr. Sheheryar Khan had enunciated their stand on this question”, he said, “If India also agreed to sit on negotiation table expressing its readiness to implement the UN Resolution under international law then both India and Pakistan are obliged to withdraw troops from the State as envisaged under UN Resolutions.”¹⁶

In fact, the militant organisation Muslim Janbaz Force was created by Peoples League, with Babar Badar as its Chief, in 1990, when Shabir Shah was in prison and the

freedom struggle in the state, which surfaced through different phases since 1947, had entered in its final stage. The mass uprising and insurgency in the State or Jammu and Kashmir had matured from hartals and demonstrations to militant encounters and armed retaliation. Two years after it Shabir Shah very rightly stated: "It is unfortunate that fake militants have been misusing the gun and maligning the movement. They are not genuine 'mujahideens'. I strongly condemn their barbaric acts."¹⁷ The main cause of the irregularity and lack of discipline amongst the militants, he believes, is the large number of militant outfits which should have been very few so as to have a proper coordination between them as their goal is ultimately the same—to pressurize India for giving the people of Jammu and Kashmir the right of self-determination. In spite of these assertions Shabir Shah always gave a word of caution to the armed guerrillas of Kashmir freedom movement —

*Never misuse the gun which is a sacred trust with you. Ensure your all efforts are only for fulfilling the goal for which you have put even your precious lives at stake.*¹⁸

He said that exhibiting utmost restraint and taking every step with great caution has assumed more significance as "some black sheep" have penetrated into the ranks of militants "at the behest of Indian Intelligence agencies". These infiltrators have the specific task of indulging in vandalism, looting people on gun point, harassing innocent people and raising frivolous issues so that the on-going freedom movement is defamed and derailed, besides creating doubts in the minds of the people about its utility.¹⁹ Time and again Shabir Shah advised the militant leaders to throw these 'black sheep' immediately out of their organisations and get united in order to fight for the noble cause. Calling for broad-based unity among different militant and political groups, Shabir Shah went to the extent of

suggesting complete merger of major groups, having same political ideology. He very wisely stated that mushroom growth of guerrilla groups was "an evil and it is the duty of every sincere person to see that this cult is put to an end."²⁰ It is what the President of JKLF, Mr. Mohammad Yasin Malik said in a public gathering the day he was released. While answering a question that Jammu and Kashmir Liberation Front does not agree with UN Resolution that Kashmiris should either opt for India or Pakistan and pleads the case of an independent Kashmir, Shabir Shah said, "I appeal to them to join us, when I, alongwith A.G. Lone, Molvi Abbas Ansari, Professor Abdul Gani and Sayeed Ali Shah Geelani were in Nainee, all of us did not succumb to the pressure of Government of India. On the political front there are organisations like Kashmir Liberation Council, Peoples League and Muslim Conference, Jamat-i-Islami and others who will coordinate accordingly. It is painful that human rights are being violated though indirectly it is helping out Kashmir struggle."²¹ In other words, he is of the opinion that "all the militant organisations will run simultaneously along with the political front till the aim of the freedom struggle is achieved."²² Asked whether he has been to Pakistan he outrightly stated : "There are enough people here to provide me shelter and help. I will die here rather than escape to some other place just to evade arrest."²³ Talking to his brother Mohammad Sayeed Shah at Hari Nivas interrogation centre, after his arrest on 27 September 1989, Shabir said, "I am not worried whether I will be killed or hanged because I am fighting for a just and noble cause. However, I wish my blood be scattered in the lanes and streets of my beloved country."²⁴ Even before his arrest he said to a local press correspondent, "I am not involved in any militancy or terrorist activity. My organisation is a political organisation. I have never been to Pakistan though I have an ambition to meet Benazeer Bhutto. I am in no way concerned with or involved in an attempt of murder of Mr. Ali Mohammad

Watali by few armed militants. I met Mr. Maqbool Bhat in Tihar Jail and the very sight of him left a deep impact upon my mind.”²⁵ In other words, Shabir Shah is a political leader, a living legend in Kashmir history, a symbol of peace, love and fraternity. Even when the gun has become an integral part of the freedom struggle of Kashmir, Shabir Shah is of the opinion that gun should be backed by a strong political movement. He is in favour of either the implementation of UN Resolutions on Kashmir, or holding a tripartite talks, with Pakistan, India and Kashmir as the participants, to find an everlasting solution to the Kashmir problem. However, he does not favour the view of thrusting his or his organisation’s opinion upon people. He has always asserted that “the final verdict lies with the people, we will go by what they say.”²⁶

One of the major charges levelled against Shabir Shah, as indicated in the previous chapter, is that he organised protests and demonstrations on 26 January and 15 August and appealed to the people of Jammu and Kashmir to boycott the Government celebrations. In fact, while talking to one of the press correspondents, Mr. R.C. Ganjoo, Shabir Shah outrightly stated : “If at all elections are announced in Jammu and Kashmir State again, a boycott call will be given particularly by my party, Peoples League. We do not accept the Indian Constitution, nor have we contested elections.”²⁷ These words do not make him so called anti-national but a true “man of conscience” who right from the childhood saw how his countrymen have been deprived of the right of self-determination and therefore, pledged to pursue his life’s mission to achieve this basic right for his people. He saw and experienced India exhausting all possible options and avenues to subjugate and silence the people of Kashmir. He saw from the early childhood the Indian democracy getting exposed in Kashmir through fraudulent and rigged elections which the Indian Government claimed to be a substitute for the plebiscite promised to its people by Pandit Jawahar Lal

Nehru. If elections are a substitute of the plebiscite then Shabir Shah has all along rejected the validity of these elections and in 1989 parliament elections the millions of Kashmiris, at the call of Shabir Shah, totally boycotted and rejected them too. Even the five Muslim United Front leaders, who had contested the State Assembly elections in 1987 and were declared elected, (in spite of the massive rigging) in order to hoodwink the international opinion that elections are being contested in Jammu and Kashmir, resigned from their seats on 30 August, 1989 at the request of Shabir Shah and other freedom loving youth. All of them decided to struggle for the right of self-determination of the people of Jammu and Kashmir instead of wasting their time in the State Legislative Assembly about which the UN Security Resolution (dated 24 January 1957) states : "..... Any action that Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action by the Assembly, would not constitute a disposition of the State in accordance with the above principles" (The above principles refer to the resolution of Security Council and UNCIP).²⁸

Though the Government of India tried many times to convince Shabir Shah for a unilateral dialogue, he always refused and left it to the people of Jammu and Kashmir. During his confinement in various Jails he was persuaded and pressurized by the Government to change his stand on Kashmir issue but he remained firm in his unshattered convictions. Even during his recent confinement in Tihar Jail, he along with other political leaders of Kashmir such as Sayeed Ali Geelani, A.G. Lone, Professor Gani and others was brought to a newly created security camp near Mehrauli (in Delhi), where he was persuaded to enter into a dialogue with the Government of India. Shabir Shah refused to negotiate on the conditions put forth by the Government and reiterate his belief that the Governments

of India and Pakistan should respect the wishes of the people of Kashmir and enter into a dialogue with the true representatives of Kashmir so as to arrange for an honourable solution of Kashmir problem in accordance with the aspirations of the people. It really looks heartening to see this youngman with this much of integrity, confidence, dedication and faith. It is a tough job and heavy burden to wear a leader mantle that occasionally threatens to bow the shoulders already weakened by almost 20 years of imprisonment. These are the qualities that make a man a 'God Father', 'a Crusader' and 'a leader of quality of Nelson Mandela.'²⁹ However, Nelson Mandela became a hero not only because of his unaltered confidence in his ideal but also because there was the whole world behind him. His words, "The march towards freedom and justice is irreversible" became prophetic while the same words of Shabir Shah are being labelled, by the Government of India and some self-styled nationalist leaders, as 'separatistic', 'fundamentalistic', 'secessionistic', and 'extremistic.' However, for the millions of Kashmiris it is not disheartening that their beloved leaders is being branded as a terrorists or secessionist because even Nelson Mandela was labelled as a terrorist by racist Pretoria regime in his early struggle. The simple minded and innocent Kashmiris are sanguine that just as millions of people assembled at "Wembley Stadium" in London in order to demand the release of Mandela, with the storming changes in the world political and geographical order tomorrow millions of people will demand the release of Shabir Shah, "the Nelson Mandela of Kashmir."³⁰

In fact the incarceration, intimidation, harassment, interro-gation, torture, blackmailing and character assassination undergone by Shabir Shah, right from his early age, makes him a stronger character and man of conscience than Nelson Mandela. Nelson Mandela was in detention for a prolonged period of 25 years but most probably he did not suffer from those ailments under

detention as Shabir Shah has due to the unhygienic conditions of Indian prisons as well as the brutal tortures inflicted upon him in various police lock-ups and interrogation centres. "I have been brought to the nursing home eight months after my ailments were diagnosed" said he to Saroj Razdan of the daily *Kashmir Times*.³¹ In spite of these sufferings he is steadfast in his convictions such as humanity, message of brotherhood, love, compassion and non-violence which stand in sharp contrast to state-sponsored terrorism unleashed in Kashmir, particularly for last four years. Presently, when thousands of youth have been murdered, hundreds of women molested, and a large population either imprisoned or kept hostage, it is being propagated by the Indian media that some fundamentalist elements, at the behest of Pakistan, are indulging in terrorist activities which the Indian paralimitary forces are crushing in order to safeguard India's territorial integrity. By stating these blatant lies India is not only trying to justify its inhuman actions but also attempts to hide the fact that Kashmiris have never accepted the Indian domination and Kashmir has never been an integral part of India. Accordingly, Shabir Shah believes that "no offence is committed by militants who fight against foreign rulers for the purpose of liberating their nation. Involvement in so-called legal offences is no offence."³²

Shabir Shah's beliefs transcend legal parameters of local laws and are embedded in true spirit of man. Very recently he issued an appeal to the entire world which states : The upsurge of militancy in the State of Jammu and Kashmir is the culmination of a process that slowly gathered momentum ever since 1947 when, totally unmindful of its innocent inhabitants, the British Imperialists and the self-centred leaders in the sub-continent divided this Independent Princeley State into two by means of a cease-fire line separating, thereby, parents from their children, brothers from their sisters and above all, denying the entire population the basic human right to

move within their own territory freely. To denounce this genuine *Freedom Struggle* as a terrorist movement or a separatist movement is a blatant lie and a fabrication propagated by India to mislead the world because gun was the only resort left to the peace-loving people of Kashmir to mobilise the world Community in order to implement UN Resolutions at a time when resolutions on Kuwait and Namibia have already been implemented. These resolutions on Kashmir—which still figure in the documents of the Security Council under SCOR/646 dated 15 January, 1948 ; S/726 dated 3 December; and the Supplement to 15 January, 1948 like UN Doc-S/1100, UN Dos-S/1196, UN Doc-S/3 922—unambiguously recognize Kashmir's right of self-determination and lay down in an historic Resolution, dated 21 April 1948, that the future of the State of Jammu and Kashmir be decided through a fair and unfettered Plebiscite. Even Pandit Nehru in the telegrams given by him to various leaders and institutions, including the U.N.O. on 27 October, 31 October, 4 November, 1947 and 4 October, 1948 as well as in his public announcement (on the All India Radio on 2 November 1947) and at Lal Chowk Srinagar on 12 November 1947 reiterated that the future of the State of Jammu and Kashmir will be decided by “a fair and impartial Plebiscite soon after normal conditions return in the State.”

Instead of making any positive attempt to restore the so called normalcy in the State, India indulged in mutual confrontation with Pakistan and both countries always tried to put each other strategically under pressure at the cost of thousands of Kashmiris who have been sacrificing their lives for a pious and noble cause. The Simla Agreement between the Governments of India and Pakistan, in which the well-known cease fire line was theoretically converted into the “Line of Control” without the knowledge of those 12 million human beings whose very identity and existence was being put at stake, was one of the strategic and canny devices used by the Indian Government to reduce the Kashmir Issue to a territorial dispute between two neigh-

bouring countries. Besides, India exhausted all possible options and avenues of subjugating and silencing the people of Jammu and Kashmir by utilizing the services of unscrupulous administrators, self-seeking and power hungry politicians, and brutal paramilitary forces just to lend legitimacy to its rule in Kashmir. The farce and fraudulent and rigged elections, active discrimination of muslims in employment, political and administrative corruption, and above all, the denial of elementary human rights to the people of Kashmir have further exposed India's intentions in the State of Jammu and Kashmir.

Our humble submission to the entire world is :

If North and South Vietnam can reunify, if the Berlin wall got dismantled resulting in reunification of Germany, there is no logic why the artificially drawn cease-fire line should not vanish so that the presently divided Kashmir gets unified. Kashmiris are not terrorists but civilised and cultured people who are fighting for their birth right; the Right of Self-determination—a right enshrined in the UN Charter and promised to them by the leaders of India and Pakistan.

We request you on humanitarian grounds, says Shabir Shah, "to prevail upon Indian Government and compel it to stop the atrocities in Kashmir and grant its inhabitants their right of self-determination which its own leaders have persistently promised to the people of Jammu and Kashmir."

NOTES AND REFERENCES

1. See "Grounds of Detention" in Appendices I-XII.
2. *Nation* March-April 5-11-1992
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4. *Weekly Chattan*, (9 October, 1989).
5. *India Today*, 30 April, 1989, PP. 26-29.

6. *The Kashmir Times*, 8 March, 1992.
7. *Ibid.*
8. See *Weekly Chattan*, 9 October, 1989.
9. *The Kashmir Times*, 6 June, 1989.
10. *Nation*, 5—11 April, 1992.
11. *Ibid.*
12. *Ibid.*
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15. *Nation*, op. cit.
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26. *The Kashmir Times*, 8 March, 1992.
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APPENDIX I
COUNCIL FOR HUMAN RIGHTS
IN KASHMIR

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**KASHMIR HUMAN RIGHTS GROUP URGE
RELEASE OF KASHMIRI LEADER FROM
INDIAN PRISON CALLING HIM
“A PRISONER OF CONSCIENCE”**

Larchmont, NY. December 31, 1991. The Council for Human Rights in Kashmir has made an urgent appeal to the government of India through the Indian Ambassador in Washington, and urged it to release the Kashmiri leader Shabir Shah from detention. They have also appealed for the release of thousands of Kashmiris held in jails without trial. Most have been severe tortured.

Shabir Shah, only 37 years old, has spent 17 years of his life in Indian jails for demanding freedom for Kashmir. He is suffering from severe kidney damage due to frequent detentions and lack of medical attention, and ear injury caused by brutal interrogation.

M. Farooq Kathwari, Chairman of the Council for Human Rights in Kashmir, said “Shabir Shah’s life of dedication and incarceration for the cause of freedom and human rights of Kashmiris exemplifies the tragic situation of the denial of basic freedoms in Kashmir.”

Shabir Shah was born in June 1954, in Kadipora, Kashmir. He studied at Biscoe Tyndale School in Srinagar and completed one year of college education. In 1968, at the

age of 14 he began his political career by organizing a procession demanding political rights for Kashmiris and their right of self-determination. For this he was thrown in jail for six months.

After his release he joined the Young Men's League, an organization demanding freedom for Kashmiris, and since then has been put in jail eight times, without trial and often preceded by torturous interrogations. During the intervening period of jail terms, Shah has always been involved in peaceful rallies organized to demand freedom for Kashmiris. His places of confinement have been the most notorious Indian jails like the "Red-Sixteen" in Srinagar, Udhampur, Jodhpur in Rajasthan and the most infamous, Central Tihar Jail in Delhi where he is still detained without trial. While in Rajasthan jail, Shabir Shah's relatives or his attorney were not allowed to visit him, and he was often paraded for two hours a day in temperatures reaching 110°F, barefoot and naked. His feet and body skin have been badly damaged, but the worst are the kidneys that require urgent special medical attention.

"It is a sad reflection on the Indian legal system," says Kathwari, "that a young man who preaches and practices non-violence is frequently thrown into jails and never brought to trial for the apparent 'crime' of demanding freedom for Kashmir." The Kashmiris have condemned the Indian Government's excesses on the person and human right of Shabir Shah.

"His arrest in September 1989, lead to the escalation of the movement for self-determination and freedom. In February 1990, one of the largest peaceful demonstrations for freedom was held with over one million Kashmiris marching and demanding their right to be free," observed Kathwari. His family has also paid a major price; his father, Mr. Ghulan Shah, was tortured and died while in police custody. His mother, sister and elder brother have been subjected to many indignities, including several raids on their homes.

"Shabir Shah's life is a representation of the hardships suffered by thousands of Kashmiris, mostly young people. Shabir Shah is truly a prisoner of conscience," said Kathwari.

"Shabir Shah is a non-violent political activist who has continuously projected the Kashmiri right of self-determination. His weapon to achieve freedom for Kashmiris is to exert pressure through world opinion, and he contends that both India and Pakistan should respect the wishes of the people of Kashmir. He prefers a dialogue among India, Pakistan and representatives of Kashmiris to arrange an honorable solution of Kashmir in accordance with the aspirations of the people of Jammu and Kashmir. He believes that world powers like the United States, Western Europe, and Russia, together with the United Nations, can and should play an important role in mediating this situation," said Kathwari.

The Council for Human Rights in Kashmir has also appealed to governments and human rights organizations to intercede on behalf of the people of Kashmir by :

- (a) Urging the Indian government to immediately release the Kashmiri leader, Shabir Shah, and thousands of Kashmiris held in Indian jails.
- (b) Allowing international human rights workers and journalists to visit Kashmir and monitor the situation there.
- (c) Immediately ceasing hostilities in Kashmir, especially the gross violations of human rights and allowing the return of all refugees to their homes.
- (d) Initiating immediate withdrawal of all troops from Kashmir and the replacement of United Nations observers with an International peace keeping force.

APPENDIX II

GROUND OF DETENTION

SHABIR AHMED SHAH
S/O GHULAM MOHAMMAD SHAN
R/O KADIPORA, ANANTNAG.

You are a staunch and dedicated worker of the Peoples League. The said party of which you are an active member is opposed to democracy, secularism and State's accession to India. The party believes that Kashmir is still a disputed question and the people of the state are yet to decide as to whether they want to accede to India or Pakistan. The leaders of the party are of the view that the people of the state should be given the right of self-determination so that they can decide their future through an impartial plebiscite. To achieve this objective, the party further believes that the Muslim youth should prepare themselves even for an armed rebellion.

You initially came to notice while pasting posters issued by the Youngmen's League, Students Federation in Anantnag town on 14-2-1970. On 01-08-70 a secret meeting of League was held at your house where it was decided to observe 9th August as a Black day in the town of Anantnag. To celebrate Pakistan Independence Day of 14th August, you distributed crackers amongst various persons on the night of 12/13-8-1970. You were again found pasting hand written posters captioned "Inqilab Zindabad" issued by the League in Anantnag town. Again on 2-10-70 you were noticed pasting hand written posters captioned "Nou-jawani Kashmir Ke Liye Paigame Hayat" issued by the League. On 6-2-1971 you put some copies of the posters captioned 'Students' Federation Ke Mujahid' issued by the league in the Jeep belonging to CID which was parked outside the CID office at Anantnag. You were arrested on

12-04-1971 and released on 23-06-72. During the disturbances which erupted in connection with the Book of Knowledge, renaming of Womens College, Srinagar, you organized students who resorted to pelting, high jacking of a few Government buses and causing damage to them and indulging in arson at Anantnag. You created trouble in Jamia Masjid Anantnag on 05-01-1974, on Id-congregation, and were detained by police and released on 04-05-1974. You were again detained on 03-10-74 and released on 20-06-75. In the year 1975 when Peoples League came into existence, you joined the party. In August, 1975 you made an effort to compel the shop-keepers to observe hartal in the town of Anantnag as a call for the same was given by the Peoples League. You were arrested by Police on 26-08-75 in case FIR No. 204/75 and released on bail on 25-10-1975. It was due to the strenuous efforts made by you that the Peoples League remained live in Anantnag. On 09-06-76 you were arrested for giving shelter to Mohammad Maqbool Bhat of Liberation Front and released on 14-09-77. During 1978 you became General Secretary of the Peoples League and a hard core member of the party. In 1979 when Mr. Bhutto was executed, you played the worst role at Anantnag in instigating the people for observing hartal which later resulted in arson, loot etc. During the same year an attempt to burn a temple at Sopore was made and in that connection a case FIR No. 38/79 was registered and during investigation it was found that Peoples League workers including you had made this attempt to create communal tension and were arrested subsequently. During Mattan episode of 1979 you were instrumental in instigating some Muslim youth at Anantnag who resorted to violence and made Hindu shrines their targets. In this connection a case FIR No. 98/79 was registered and you were arrested. You were detained under Public Safety Act on 24-05-79 and lodged in Central Jail, Srinagar where from you were released on 26-10-1979. Since then you are holding secret meetings at your residence at Kadipora and persuading youngmen to join your party and create lawlessness. You have also been

to Delhi and some other places outside the State during January/February, 1980 where you are reported to have met some shady characters. You are responsible for distributing Peoples League literature in Anantnag. You are also having contacts with Mahaz-i-Azadi, Jamait-ul-Tulba and are trying to bring these parties on one platform, the reason being that these two parties are also challenging the accession of the State of J & K with Indian Union.

On 13-7-80 in pursuance of the decision taken in a secret meeting of the party workers, workers of Mahz-i-Azadi and Jamait-ul-Tulba held on 10-7-80 in the office of Mahaz-i-Azadi Anantnag, a procession was taken out by the three party workers which started from your house from Kadipora. Highly objectionable slogans were raised in this procession which were challenging the accession of J & K State with Indian Union. Later on a joint public meeting was held at Lal Chowk, Anantnag which was addressed among others by Musadiq Adil of Sopore, Mohd. Farooq, Chairman of the Peoples League and Sheikh Tajamul-Islam Nazim-i-Aala Jamit-ul-Tulba. You also participated in this meeting. In their speeches the speakers openly challenged the accession of the State to the Indian Union and said that Kashmiris had yet to decide their future which could only be decided through an impartial plebiscite. They further stated that the people of the State want to accede to Pakistan and as such they had to maintain their relations with that country. They asked the audience particularly the younger generation that they must be prepared to launch an armed rebellion to achieve their goal. They instigated the audience that they must rise in revolt against the tyranny and suppression let loose by the Indian Government against the youth of Kashmir. It was at your instance that a procession of the Peoples League and Mahaz-i-Azadi was taken out on 28-7-80 in Anantnag to express resentment against the incident which had occurred at Srinagar on 27-7-80 in which police had to resort to firing to maintain peace. Highly objectionable slogans like 'Indian Dogs Go Back', 'Pakistan Zindabad',

'We want Pakistan' etc. were raised in this procession. Bashir Ahmad Bhat of Mahaz-i-Azadi delivered three speeches at Kadipora, Cheni Chowk and New Chowk, Anantnag while the procession was passing through these places. The speaker tried to instigate the people by alleging that Indian Army had molested some women at Srinagar on 27-7-80. It was further alleged by the speaker that Muslims are being massacred in Teirpora and Assam by the majority community. You were bent upon to create lawlessness by resorting to violence, by creating panic in the minds of the minority community and by creating chaos and confusion in the minds of the people at large.

Your activities referred to above are highly prejudicial to the maintenance of public order. It has, therefore, become necessary to order your detention under the Public Safety Act.

Sd/-

(OMAR JAN)

District Magistrate, Anantnag.

Note :

At places the reader might sense a minor disparity between the period of detention given in the text and in the 'The Grounds of Detention' gives in the appendices. It is to be kept in mind that in various cases the grounds of detention were not furnished to Shabir Shah. Besides, the period between his release in one case and the subsequent arrest in other alleged offense has never been mentioned in these Grounds of Detention. Even then these appendices give a clear picture of Mr. Shabir Shah's offenses and the attitude of the Government towards him.

(Author)

APPENDIX III
OFFICE OF THE DISTRICT
MAGISTRATE, ANANTNAG

To

No. : 305-10/ST

Dt. : 23-05-1979

Shri Shabir Ahmed Shah,
S/o Ghulam Mohammad Shah
R/o Kadipora, Anantnag.

Through Superintendent Central Jail Srinagar.

Whereas you have been detained vide order No. 299-304/St. dated 23-05-79 made under section B(a)(i) of the Jammu and Kashmir Public Safety Act, 1978 (Act No. VI of 1978).

Now, therefore, in pursuance of Section 13 of the said Act you are hereby informed that your detention was ordered on the grounds specified in the Annexure hereto which also contains facts relevant thereto. You may, make a representation to the Government against the said detention order, if you so desire.

Sd/-

District Magistrate, Anantnag.

Copy to :

1. Secretary to Government, Home Department, Srinagar;
2. Divisional Commissioner, Kashmir, Srinagar;
3. DIG Police, Kashmir, Srinagar;
4. S.P., Anantnag;
5. Superintendent Central Jail, Srinagar for information and necessary action. Copy of 'ground of detention' is enclosed which may kindly be served upon the detenu on proper receipt. The receipt obtained be sent to this office forthwith.

Name : Shabir Ahmad Shah
S/o. Ghulam Mohammad Shah
R/o. Kadipora, Anantnag.

You originally belong to *Young Men's League* (Hamid Group) which was an anti-national and Pro-Pak organization of youngmen. You along with your erstwhile associates were responsible for creating sub-version and danger to the maintenance of public order by organising anti-national demonstrations and protests.

Later in the year 1975 when the Peoples League was formed with the avowed object of challenging the accession of the State to India and also for furthering the cause and interest of Pakistan in the State, you joined the party as an active member. You are currently the General Secretary of the Peoples League. You and your party have shown open sympathy and have tried to elicit public opinion in favour of Mohammad Maqbool Bhat, a die-hard Pro-Pak subversive element who has been sentenced to death on two occasions for murder, espionage and sabotage and is currently awaiting execution. Pamphlets and posters have been issued by the Peoples League in support of Mohammad Maqbool Bhat.

In January and February, 1979, you joined subversive elements of Sopore area and organized the burning of religious places in order to create chaos in the State. The conspiracy was, however, unearthed by Baramulla Police in time before much damage was done. You were arrested in case FIR No. 38/79 U/S 436 RPC P/S Sopore registered in this connection.

Much before the execution of Mr. Z.A. Bhutto in Pakistan, you and your party sent hand bills and booklets to arouse the sentiments of the People against the State Government. You alongwith your party members moved secretly to maintain contacts with disgruntled and undesirable elements in the Valley and to arouse their base sentiments in this connection and context.

In the third week of March 1979, when some unemployed youth started hunger strike at Lal Chowk Anantnag, you

lent support to the CPI(ML) and other parties who were out to create disturbances and to incite the youth to resort to violence and disorder.

On 29-03-1979 you alongwith your colleagues held a meeting and decided to disturb public order in Anantnag town in the context of Pro-Bhutto sentiments and demonstrations the next day. Consequently on 30-03-1979 you alongwith your associates moved stealthily to warn the shopkeepers to close their shops. You also incited the people to put roadblocks and stop traffic. You and your associates organized a strike in Anantnag College when it opened on 30th. Later in the day you alongwith your associates incites youths to resort to violence including murderous assault on the police and the magistracy took place in Anantnag town in which many officials were seriously injured. A case FIR No. 98/79 U/S 302/148/336/332/149/120-B RPC was registered. You went under-ground and could not be arrested for quite some time but you were arrested in the case later. You are presently on bail in this case. On 07-04-1979, when normalcy was being restored in Anantnag town and shops were being opened, you alongwith your associates appeared near Lal Chowk and threatened shop-keepers to close shops. Their shouting and running had the effect of creating tension in the town and many shops were closed. Police efforts to arrest you could not succeed as you ran away in the by lanes and later went under-ground.

More recently you have been collaborating with anti-national, Pro-Pak elements who come to hold secret talks and links with you. You are a dangerous and desperate character out to create chaos, disorder, subversion and the like to achieve your ends. Your remaining free at large is pre-judicial to the maintenance of public order and also to the security of the State. I am convinced that unless you are detained there is every likelihood that you will continue to create confusion in public minds and instigate people to lawlessness and disturbance of public peace and tranquility.

Sd/-

District Magistrate, Anantnag

ANNEXURE-IV

G.M. Shah V. State of J & K

It may be noted that whereas the order of detention stated that it had been passed with a view to preventing the detenue "from acting in any manner prejudicial to the maintenance of public order", in the last paragraph of the grounds furnished to the detenue, it was stated that 'your remaining free at large is prejudicial to the maintenance of public order and also to the security of the State.' The relevant part of Section 8 of the Act under which the order of detention is passed reads :

"8. Detention of certain persons : (1) The Government may :

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to —

(i) the security of the state or the maintenance of the public order, or

(ii) the maintenance of supplies and services essential to the community, or

(b) it is necessary so to do, make an order directing that such person be detained.

(2) Any of the following officers namely :

(i) Divisional Commissioners,

(ii) District Magistrates, may if satisfied as provided in sub-clauses (i) (ii) of clause (a) of sub-section (1), exercise the powers conferred by the said sub-section.

(3) For the purpose of sub-section (1) :

(a) "acting in any manner prejudicial to the security of the State" means making preparations for using or attempting to use, or using or instigating, inciting, provoking or (otherwise abetting) the use

of force, to overthrow or overawe the Government established by law in the State.

(b) "acting in any manner prejudicial to the maintenance of public order means :

- (i) promoting, propagating or attempting to create feelings of enmity or hatred or disharmony on grounds of religion, race, caste, community, or region.
- (ii) making preparations for using or attempting to use, or using or instigating, inciting, provoking, otherwise abetting the use of force where such preparation, using attempting, instigating, inciting, provoking or abetting, disturbs or is likely to disturb public order.
- (iii) attempting to commit, or committing, or instigating, inciting, provoking or otherwise abetting the commission of mischief within the meaning of Section 425 of the Ranbir Penal Code where the commission of such mischief disturbs, or is likely to disturb public order.
- (iv) attempting to commit, or committing, or instigating, inciting, provoking or otherwise abetting the commission of an offence punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more where the commission of such offence disturbs, or is likely to disturb public order.

6. It is seen from Section 8(1)(a)(i) and Section 8(2) of the Act extracted above that the Government or the District Magistrate may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of the public order, make an order directing that such person be detained. The expression 'acting in

any manner prejudicial to the security of the State' is defined in Cl. (a) of sub-section (3) of Section 8 of the Act as making preparation for using or attempting to use, or using, or instigating, inciting, provoking or otherwise abetting the use of force to overthrow or overawe the Government established by law in the State. Clauses (b) of Sec. 8(3) of the Act defines the expression 'acting in any manner prejudicial to the maintenance of public order'. The distinction between the two expressions lies in the fact that while in the case of the former, the object of making preparation or instigating or abetting the use of force etc. should be with a view to overthrow or overawe 'the Government established by law in the State', in the case of the later, the object of the acts mentioned therein should be disturbance of public order.

7. As already mentioned, while the order of detention states that it was being made with a view to preventing the detainee from acting in any manner prejudicial to the maintenance of public order, in the grounds disclosed to him, it had been stated that the detainee's remaining at large was prejudicial to the maintenance of public order and also to the security of the State. We shall now briefly refer to the nature of the grounds furnished to the detainee. First we shall deal with paragraphs (1), (3) and (5) to all of the grounds. In paragraph (1) of the ground, it is stated that the detainee along with his erstwhile associates was responsible for creating subversion and danger to the maintenance of public order by organizing anti-national demonstrations and protests. In paragraph (3) of the grounds, it is stated that in January and February 1979 the detainee had joined subversive elements of Sopore area and organized the burning of religious places in order to create chaos in the State. In paragraph (5) of the grounds it is stated that in the third week of March 1979, the detainee had lent support to the Communist Party of India (ML) and other parties who were out to create disturbances and to incite the youth to resort to violence and disorder

when some unemployed youth started hunger strike at Lal Chowk, Anantnag. In paragraph (6) of the grounds, it is stated that on March 29, 1979, the detainee had along with his colleagues held a meeting and decided to disturb public order in Anantnag town. In para (7) of the grounds there is a reference to the detainee along with his associates inciting the youths to resort to violence and create disorder. It is thus clear that in paragraphs (1), (3) and (5) to (7) of the grounds, there is no reference to any attempt made by the detainee to use force to overthrow or overawe the Government established by law of the State. Paragraphs (2), (4) and (8) of the grounds are also in no way different. In paragraph (2) of the grounds, although there is a reference to the detainee joining Peoples League, which had been formed with an avowed object of challenging the accession of the State of Jammu and Kashmir to India and also for furthering the cause and interest of Pakistan in the State, the act attributed to the detainee is that he had tried to elicit public opinion in favour of Mohammad Maqbool Bhat who had been sentenced to death. An attempt on the part of any citizen to elicit public opinion in favour of a person who had been sentenced to death and to save him from the gallows cannot be considered as acting in any manner prejudicial to the security of the State because it cannot be considered as an attempt to overthrow or overawe the Government established by law in the State. Similarly the act attributed to the detainee in paragraph (4) of the grounds cannot be considered as an act prejudicial to the security of the State as what is alleged therein is that much before the execution of Mr. Z.A. Bhutto in Pakistan, the detainee had sent handbills and booklets to arouse the sentiments of the people. Although it is stated that the detainee had tried to arouse the sentiments of the people against the State Government, the alleged act on the part of the detainee even if it was true could not be considered to be prejudicial to the security of the State of Jammu & Kashmir because the State of

Jammu and Kashmir had nothing to do with the proposed execution of Mr. Z.A. Bhutto. Ground No. 8 which lacks material particulars appears to be a general one. These grounds are also vague in so far as the question of security of the State is concerned.

8. It is thus clear that none of the grounds supplied to the detinue falls within scope of clause (a) of Section 8(3) of the Act which defines the expression 'acting in any manner prejudicial to the security of the State'. It is further seen that even though it is stated in the grounds that the District Magistrate was of the view that the detinue remaining at large was prejudicial to the security of the State also, he did not make the order with a view to preventing him from acting in any manner prejudicial to the security of the State. A combined reading of the order of detention and the grounds furnished to the detinue shows that at the time when the order was made, the District Magistrate either had no material relevant to the security of the State on which he could act or even if he had information of those grounds, he did not propose to act on it. He, however, tried to support the order of the detention by stating in the course of the grounds that by the detinue remaining at large, the security of the State was likely to be prejudiced.

9. The expressions 'law and order' 'public order' and 'security of the State' are distinct concepts though not always separate. Whereas every breach of peace may amount to disturbance of law and order, every such breach does not amount to disturbance of public order and every public disorder may not prejudicially affect the 'security of the State'. This is borne out from the observations made by Patanjah Sastri, J. in the decision of this Court in *Romesh Thopper V. State of Madras* (1950 SCR 594 at p. 100) which are as follows :

"As Stephen in his *Criminal Law of England* observes : 'Unlawful assemblies, riots, insurrections, rebellions, levying of war, are offences which run into each other and

are not capable of being marked off perfectly defined boundaries. All of them have in common one feature, namely that the normal tranquility of a civilized society is in each of the cases mentioned disturbed either by actual force or at least by the show and threat of it." Though all these offences thus involve disturbances of public tranquility and are in theory offences against public order, the difference between them being only a difference of degree, yet for the purpose of grading the punishment to be inflicted in respect of them they may be classified into different minor categories as has been done by the Indian Penal Code. Similarly, the Constitution, in formulating the varying criteria for permissible legislation imposing restrictions on the fundamental rights enumerated in Article 19(1), has placed in a distinct category those offences against public order which aim at undermining the security of the State or overthrowing it, and made their prevention the sole justification for legislative abridgement of freedom of speech and expression, that is to say, nothing less than endangering the foundations of the State or threatening its overthrow could justify curtailment of the rights to freedom of speech and expression, while the right of peaceable assembly "sub-clause (b)" and the right of association "sub-cl.(c)" may be restricted under clauses (3) and (4) of Article 19 in the interests of 'public order', which in those clauses includes the security of the State. The differentiation is also noticeable in Entry 3 of list III (concurrent list) of the Seventh Schedule, which refers to the "security of a State" and 'maintenance of public order' as distinct subjects of legislation. The Constitution thus requires a line to be drawn in the field of public order or tranquility marking off, may be, roughly, the boundary between those serious and aggravated forms of public disorder which are calculated to endanger the security of the State and the relatively minor breaches of the peace of a purely local significance, treating for this purpose differences in degree as if they were differences in kind."

10. As observed by Hidayatullah, J. (as he then was) in *Dr. Ram Manohar Lohia V. State of Bihar* (1966) 1 SCR 709, one has to imagine three concentric circles, in order to understanding the meaning and import of the above expression. 'Law and Order' represents the largest circle within which the next circle representing 'public order' and the smallest circle represents 'security of State'. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of State. It is in view of the above distinction, the Act defines the expressions 'acting in any manner prejudicial to the security of the State' and 'acting in any manner prejudicial to the maintenance of public order' separately. An order of detention made either on the basis that the detaining authority is satisfied that the person against whom the order is being made is acting in any manner prejudicial to the security of the State or on the basis that he is satisfied that such person is acting in any manner prejudicial to the maintenance of public order but which is attempted to be supported by placing reliance on both the bases in the grounds furnished to the detenue has to be held to be an illegal one vide decisions of this Court in *Bhupal Chandra Ghosh V. Arif Ali*, (1974) 2 SCR 277 and *Satya Brata Ghosh V. Arif Ali* (AIR 1974 SC 258).

11. The order of detention is, therefore, liable to be quashed and the detenue is entitled to be set at liberty. The petition is accordingly allowed.

12. In view of the above conclusion we have not gone into the other contention urged by Mr. M.K. Ramamurthi that many of the grounds furnished to the detenue being vague, the order of the detention cannot be supported even on the grounds that it had been passed with a view to preventing the detenue from acting against public order.

Petition allowed

APPENDIX V

In a letter No. ST/8MS/464-66/84 dated 9-6-1994 the District Magistrate Srinagar communicated to Shabir Shah the order No. PSA/SI/DSM/84 dated 9-6-1984 under which he was detained. In his order the Magistrate indicated the following grounds of detention against Shabir Shah :

As reported by the Sr. Superintendent of Police, Srinagar, the above named individual, Shabir Ahmad Shah has been functioning as the general secretary of Peoples League in the capacity of which he engineered many subversive activities which were entirely prejudicial to the maintenance of Public Order. Besides, he founded with other associates, namely Mohd. Hussain Palloo and Fida Hussain of Rainwari Srinagar, an underground Cell, the members whereof were assigned the task of procurement of Arms/ammunition and explosives as also to cause explosions in the Valley in order to threaten the maintenance of Public Order and create communal disharmony in the State of Jammu and Kashmir. In pursuance of this, he got arms/ammunitions in the shape of revolvers and explosive in the form of dynamites and grenades arranged through the members of this Cell. And with a view to achieve the end of creating chaotic conditions and communal disharmony to disturb the Public Order, a chain of explosions was carried out in the Valley at his instruction during the last about 9 months. He further associated himself with other similar type of underground organisations like 'Hizabullah' with a view to preach communalism and indulge in violence and other militant activities to adversely effect the law and order situation resulting in the disturbance of the Public Order. Given below are some of the instances where the said person has acted in a manner prejudicial to the maintenance of the Public Order in the State :

1. As the General Secretary of the Peoples League, he held meetings of die-hards of the league at his residence at different times and instigated them to carry on subversive activities through unlawful agitations as also causing explosions in the State to thwart the maintenance of law and order and therefore creating the public disorder. The intention of such meetings was also to chart out the programme of causing subversions and sabotages prejudicial to the maintenance of Public order in the State.

Some of such meetings which he held for the purpose are listed below :

- (i) With a view to disturb the public order, the above cited individual Shabir Ahmad Shah held a meeting on 10th of May 1980 at his residence at Anantnag to arrange the making of crude devices and liquid bombs to be exploded at the important places both Government and private including the religious places like "TEMPLES", "SHRINES", "GURDWARAS" in the State resulting in the communal clashes and create a disruption in the peaceful atmosphere of the public order and in persuance of this it was decided to engage one G. Nabi Ahanger (Kamad) R/o Kamad Village of Anantnag, a technical brain for preparation of such crude bombs.
- (ii) On 15th May 1980 another meeting was held by the above mentioned individual of his co-hearts at his residence in which Gh. Nabi Ahanger (Kamad) mentioned above was summoned and appraised of their design. He was instigated to prepare crude devices and was thus provided with the materials like "Potassium Nitrate", "Gun Powder" and a tin container for this purpose. A device was prepared and tested on a top of nearby mountain failing which they decided to make a new with additional materials called "Manchal".
- (iii) On 20th May 1980 Shabir Shah with the association of others got yet another fresh device prepared

from above named G. Nabi kamad with the additional powder "Manchal" and put it to test at the top of the same mountain but, it too failed to cause explosion. Thus, they finally decided to prepare a liquid bomb.

- (iv) Another meeting was held by the above mentioned individual, Shabir Ahmad Shah on 26th May 1980 of his co-fellows at his residence. Two type of acid namely 'Hydrochloric Acid and Nitric Acid' were procured by him and the former acid was funnled in a test tube containing the latter acid in an isolated nearby paddy fields, but this bomb too did not cause any explosion etc.

2. Failing with the designs of preparing and exploding the crude device, aiming at creating a public disorder, a new subvert line of action against the wine dealers in the State was suggested by the above mentioned Shabir Ahmad Shah in the meeting of his co-fellows held at his residence on 25th of Feb., 1982. Thus all concurring to the view point it was decided to recruit and incite the youths to raid and loot wine shops to cause a state of terror in the State with the intention of causing disruption in the public order. He thus instigated the members of the league to mobalize the youths of their respective areas, and incite them to wage a war against the wine dealers by exploiting their religious sentiments. The members, therefore, collected the zealots as desired by the above mentioned individual and led them towards Anantnag on 8-3-1983 and onwards where they joined with others in attacking the local wine shops and this action continued for days together with full violence, a fact known to everybody. Case, FIR No. 44/82/U/S 1488 336-RPC which was registered in Police Station Anantnag against Shri Shabir Shah and others on this account stands witness to it.

3. Shabir Shah named above associated himself with an underground militant party called "HIZABULLAH" with the aim of uniting all the anti-national, anti-social and communal elements under one leadership so that the

common objects of creating public disorder in the State through disruption, subversions and sabotage is achieved. He thus, attended meetings held at different places to ensure that the unifications is materialised as early as possible to give final shape to their unscrupulous designs. These meetings were held at the following places and dates ;

- (a) Shabir Ahmad Shah mentioned above attended a meeting at the residence of one Irshad Ahmad Hakak of Suthrashahi, Srinagar on 10th April, 1983 where stress was laid on unification of the parties believing in the indulgence of subversive activities for disturbing public order.
- (b) He attended meeting with others in an orchard at Sopore on 10th May 1983 where plans for causing public disorder were discussed.
- (c) Attended meeting with others at the residence of one Ab. Majid Dar, one of the associates at Sopore on 15th June 1983 where members resolved to wage a war against the State Government by creating law and order problems, with a view to disturb public order.
- (d) Near Baba Shakur Din's Ziarat Watalab Sopore on 10th August 1983 where members took oath to be loyal to their cause, if united.
- (e) Again at the residence of Irshad Ahmad Bakal on 22nd Sept., 1983 where it was finally decided to meet again to give final shape to their programme to be adopted systematically in a time-table form, but all ended in a fiasco when some of the members of the organisation went underground never to meet again till to date, as they were wanted in other serious cases which occurred in the city after August-September 1983. Recruitment to the organisation was made after thorough screening and taking the oath of affirmation of secrecy and loyalty from the die-hards of the principles and

ideas of this Organisation on a specific recruitment form prepared by the Organisation mentioning inter-alia, the oath of affirmation to be taken by the incumbent to give a whole-hearted support to the "JEHAD" and War against the lawful Government.

4. On 3rd October 1983 Shabir Shah held the meeting of his followers at his residence at Anantnag in which it was decided to create disturbances both inside and outside the playground on 13th October 1983 when the One Day International Cricket Match was scheduled between the West Indies and India in order to get match abandoned for, to them the State of J & K did not form the integral part of the country and also challenged its accession with the country. Thus, in pursuance of this aim, the above cited individual instigated his followers to recruit the youths and employ them to carry on the task. Thus, in compliance of this his followers from different areas collected young boys, briefed them in view of the instructions given by Shabir Ahmad Shah and finally led them inside the cricket stadium on 13th October 1983 where they, during the course of the match rose from their seats and went inside the play ground and started digging the pitch, besides raising slogans like "INDIAN DOGS GO BACK" etc. and also caused panic in the public minds present. This whole affair was aimed at creating public disorder in the stadium. Case FIR No. 558/83/U/S 153-A, 447 120-B, RPC registered in P.S. Kothibagh Srinagar against Shabir Shah among others stand proof of it.

5. On 1st of August, 1983, One Fida Hussain of Rainawari Srinagar under the supervision of Shabir Shah, mentioned above held a meeting at his residence at Rainawari, Srinagar alongwith other associates to procure arms/ammunition and explosives, so as to use them to create a scare, and panic in the public mind in order to adversely effect the public order. With a view to achieve this end, the task of the procurement of dynamite in the form of galatine rods was assigned to one Mohd. Rafiq

Wani and Shri Abdul Aziz Sheikh of Pampore whereas the arms in the shape of revolvers with ammunition and high explosives handgrenades were to be arranged by Shabir Shah and Fida Hussain mentioned above. Thus, one number³² revolver with 6 cartridges 3 high explosive, handgrenade and 5 number of dynamite in the form of 5 galatine rods with as many detonators and fuse wires were arranged by Shabir Shah, 4 revolvers³² with 30 cartridges were arranged by Fida Hussain and similarly Mohd. RAfiq Wani and Abdul Aziz Sheikh of Pampore procured some two boxes of dynamite in the form of galatine rods. The whole stock of arms, ammunition and the dynamite was distributed among the members for safe custody and the efficient use whenever required.

6. On 25th August 1983 Shabir Shah alongwith others prepared a strong dynamite at the shop of one Yahaya at Suleiman Market Dalgate, Srinagar, out of the 5 galatine rods given by the above mentioned Shabir Shah to Fida Hussain through Mohd. Rafiq Wani and Ab. Aziz Sheikh to be exploded in the lavatory of Indian Coffee House Srinagar—rendezvous for intelligentsia, journalists and other common people of the city intending to cause a scare and panic to disturb the public order. The task for causing of explosions was given to one Muneer Ahmad and Aziz Gujri and the date was fixed as the 30th August 1983. The mission was carried out by them on the due dates with successful achievement as besides putting public order in danger, they caused fear in public mind and damaged the property.

7. Again on 29 March 1984, the above mentioned individual held a meeting at the residence of one Mohd. Rafiq Wani of Pampore with other members in which it was agreed to cause explosions with handgrenades in the Nagabal Temple Anantnag, aiming at creating a communal tension whereby communal clashes would occur to disturb the public order and accordingly the task was assigned to Rafiq Wani, Abdul Aziz Sheikh and Mohd. Ismail Sofi which was successfully exploded by Rafiq Ahmad and

Mohmad Ismail of Pampore on due date and time as per programme.

8. On 22nd April 1984, the above mentioned individual conspired with other associates in the house of Fida Hussain to cause an explosion with the dynamite in the two lavatories one in administrative Block and another in Iqbal Institute of Kashmir University, Srinagar intending Inter-alia to create a disruption in the peaceful atmosphere of the University and thereby disturb the public order by creating panic amongst the University students and staff members. The task of explosion was assigned to 5 members of the cell by the above mentioned individual with the assistance of Fida Hussain who were provided with dynamites prepared by Fida Hussain out of some galatine rods procured by him from Rafiq and Aziz Sheikh of Pampore. The task was carried out successfully on 11-4-84 thereby they caused fear and alarm in the mind of the students and staff of the University.

9. On 15-4-1984 he alongwith others decided to explode one handgrenade in the House of Shri N.K. Ganjoo, retired session Judge at Karan Nagar, Srinagar in order to murder him to create communal disharmony and disruption of the public order. The task for causing this explosion was taken by one Yehaya and one Shabir Ahmad Khan on the plan prepared by Fida Hussain under the supervision of Shabir Shah. The mission was carried out successfully on 22-4-1984 at about 20.50 hours. Though Mr. N.K. Ganjoo was fortunately saved from killing, yet damage was caused to his house.

As the activities of the above mentioned individual are highly prejudicial to the maintenance of the public order, therefore, the undersigned is satisfied that the subject merits to be detained as per section 8 of the Jammu and Kashmir Safety Act 1978.

Sd/-

DISTRICT MAGISTRATE
SRINAGAR

APPENDIX VI

Once the period of detention was over his brother Mohammad Sayed Shah gave telegrams to the President of India and its Prime Minister requesting them to release Shabir Shah. He also requested the Divisional Commissioner, Kashmir but to no avail because in the meantime the Government had detained him under District Magistrate Anantnag's order No. 460/ST/85 dated 2-7-1985. In a letter No. 467-73/ST/85 dated 2-7-1985 the District Magistrate Anantnag communicated to Shabir Shah the following grounds of detention.

You are the General Secretary of the Peoples League, an organization which is not only anti-national in character but its leaders and workers, including you are always out to disturb the public order. The leaders and workers of this party openly challenge the accession of the State of J & K with the Indian Union. Despite the fact that you were detained for your prejudicial activities immediately after your release recently, you again became active in organizing your party workers and delivering inflammatory speeches which have the tendency of disturbing the public order in the town of Anantnag. In your speeches you are promoting, propagating and attempting to create feelings of enmity/hatred on grounds of religion, caste and community. You are also provoking, inciting and instigating use of force which is likely to disturb public order :

1. On 13-6-1985 a joint meeting of the workers of the Peoples League, Mahazi Azadi and JEI—organisations which are also anti-national in character, was held in your house situated at Kadipora, Anantnag, and you presided over the meeting. Among others, Mohd. Ayoub Bhat, Manzoor Ahmad Misger, Mukhtar Ahmad Sofi, residents of Anantnag and (members of the Peoples League) Bashir Ahmad Bhat S/o Late Ab. Rashid

R/o Mohalla Shaksaz, Anantnag, Mohd. Shafi Misger R/o Anantnag of Mehazi Azadi, Latif Gilkar and Abdul Rashid (residents of Anantnag, members of JEI) participated in the meeting. Addressing the participants, you impressed upon them that the workers of the three organisations had to unite together and start a movement against the Government of India which had illegally and forcibly occupied the soil of Kashmir against the wishes of the people of the State. You further said that the aims and objects of the three organizations are one and the same *i.e.* to fight against the tyrannical rule let loose in the State of J & K by Government of India. You instigated the participants that they should start a door to door campaign against the non-muslims in the town of Anantnag and other areas and compel them to leave the soil of Kashmir. You also said that the members of the minority community in the District of Anantnag had forcibly occupied some land at Lookbhawan and Siligam which actually belong to the muslims. You went on to say that the members of the minority community had constructed temples on these lands. You instigated the participants that the members of the minority community should be compelled to vacate these lands and Mosques should be constructed there. You also said on this occasion that the people of the State of J & K should be prepared to fight against the Government of India like Sikhs in the Punjab.

2. On 17-6-1985 a secret meeting of the members of the peoples League under your chairmanship was held in the house of Mukhtar Ahmad Sofi S/o Gh. Mohd. Sofi R/o Hazratbal, Anantnag ; about 20-25 workers participated in the meeting. These included Mohd. Ayoub Bhat, Mukhtar Ahmad Sofi, Mohammad Shafi Waza, Hilal Ahmad Misgar R/o

Anantnag. While appreciating the protest lodged by the members of the Peoples League on 17-5-1985 in the town of Anantnag against the writ petition which was filed before the Calcutta High Court against the Holy Quran you said that was not sufficient. You told the participants that they should have set the Central Government office in the town of Anantnag on fire, dragged the employees from their offices and beat them ruthlessly. You further said on this occasion that in future whenever any attempt is made to injure the religious feelings of Muslims by Hindus, they should unite together and set the temples and other religious places of Hindus ablaze.

3. On 19-6-1985 one more secret meeting of the members of the Peoples League, Mahazi Azadi and JEI was held in the house of Latif Ahmad Gilkar, S/o Mohd. Ismail R/o Sarnal, Anantnag. This meeting was also presided over by you. Among others, Mohd. Ayoub Bhat, Mukhtar Ahmad Sofi, Mohammad Shafi Misger, Hilal Ahmad Misger, Bashir Ahmad Bhat participated in the meeting. You delivered a speech on the occasion and said that Muslims in other parts of India were being massacred by the members of the majority community there. You also said that in Ahmadabad, Muslims were being killed in a planned manner. You instigated the participants that they should take revenge of these indiscriminate killings of Muslims from the Hindus living in the town of Anantnag and at other places. You further asked the participants that they should prevent the Hindus from entering the temples and offering prayers there.
4. On 24-6-1985 one more joint meeting of the members of the Peoples League, Mahazi Azadi and JEI was held in the house of Mohd. Ayoub

Bhat a staunch worker of the PL situated at Mohalla Mehman, Anantnag, about 16-17 workers participated in the meeting. These included Mohd. Shafi Misger, Mukhtar Ahmad Sofi, Mohd. Ayub Bhat, Mohd. Abbas Dar, Bashir Ahmad Bhat, Addressing the participants, you incited them that whenever they are prevented by any miscreant from their activities they must deal with him ruthlessly so that nobody musters the courage to deter them from starting the movement. You further told them that if any police officer comes to their house to effect their arrest, he will be beaten to death.

From the above, I have come to the irresistible and dispassionate conclusion that you are bent upon disturbing public order in District Anantnag. As such yours is a fit case to be dealt with under the provisions of J & K Public Safety Act. According to you are detained under the said Act.

Sd/-

DISTRICT MAGISTRATE
ANANTNAG

ANNEXURE VII

Office of the District Magistrate Anantnag

Shri Shabir Ahmad Shah,
S/o Ghulam Mohammad Shah,
R/o Kadipora, Anantnag.

No : 413-19/ST/86
Dated : 25-7-1986

(Through Superintendent Jail, Heeranagar)

Whereas you have been detained under order No. 406/ST/86 dated 25-7-1986 made by the undersigned under Section 8 of the J & K Public Safety Act, 1978.

Now, therefore, in pursuance of Sub-Section (i) of Sec. 13 of the said Act, you are hereby informed that your detention was ordered on the grounds specified in the annexure hereto. You may also inform the Home Department early if you would like to be heard in person by the Advisory Board.

You may make a representation to the Government against the detention order, if you so desire.

No. 413-19/ST/86

25.7.1986

Sd/seal

(Swami Raj Sharma) IAS

District Magistrate, Anantnag

CC :

1. Secretary to Govt. Home Deptt., J & K Srinagar ;
2. DIG Police CID, J & K Srinagar alongwith copy of detention.
3. Divisional Commissioner, Kashmir, Srinagar.
4. DIG Police Kashmir, Srinagar.
5. Superintendent of Police, Anantnag.
6. Superintendent Jail Heeranagar, with the request that the grounds of detention in English/Urdu

may kindly be handed over to the said detainee against proper receipt and receipt of the detainee be obtained and sent to this office for further necessary action

GROUND OF DETENTION UNDER THE PROVISIONS OF J & K PUBLIC SAFETY ACT, 1978 IN RESPECT OF SHABIR AHMAD SHAH S/O GHULAM MOHAMMAD SHAH R/O KADIPORA, ANANTNAG.

1. After your release from previous detention you again started holding secret meetings inciting your party workers to take steps for annexing the J & K State with Pakistan. On 6-7-1986 a close door meeting was held at your house at Kadipora Anantnag which was presided over by you. This meeting was attended by other workers of Peoples League party which is well known for its antinational activities. In the said meeting you incited the participants to struggle against the State Government to ensure an impartial plebiscite in the J & K State.
2. On 8-7-1986 a close door meeting was held in your house at Kadipora presided over by you. It was attended by other selected members of Peoples League party namely, Mohd. Ibrahim Hajam S/o Lasi Hajam R/o Mattan, Mohmad Iqbal Rawloo S/o Sonaullah Rawloo R/o Kadipora Anantnag, Nazir Ahmad Khan S/o Ab. Rehman Khan R/o Mehman Mohalla, Anantnag and Mukhtar Ahmad Sofi S/o Gh. Mohd. Sofi R/o Mohalla Shah Shahib, Anantnag. It was impressed upon the participants that they should go to various schools and colleges to enlist the supporters of students community.

and launch a struggle to drive out the Indian Army from the J & K State till "Indian Dogs" are compelled to leave the State of J & K so that it will become a part of Pakistan.

3. You gave interview to the Chief Editor of Daily Hilal-i-Nav newspaper which was published in the 14th issue of the paper on 9-7-1986. In the said interview, you stated that the workers of Peoples League party would continue the struggle for establishing "Nizam-i-Mustafa" in the State. You stated that Constitution of India is not acceptable to you and you are in favour on annexing the State of Jammu and Kashmir with Pakistan.
4. On 10-7-1986 another meeting was held in your house, attended by selected workers of Peoples League namely Mukhtar Ahmad Sofi S/o Gh. Mohmad Sofi R/o Mohalla Shah Sahib, Anantnag, Mohd. Iqbal Rawloo S/o Sonaullah Rawloo R/o Kadipora, Anantnag, Modh. Ayub Bhat S/o Mohd. Shaban R/o Mohalla Mehman, Anantnag, Nazir Ahmad Khan S/o Ab. Rehman R/o Mohalla Mehman, Anantnag. You stated in the said meeting that India has annexed the J&K State through military force. You further said that the J & K State could be annexed with Pakistan only after the Indian Army is compelled to leave the State. You asked your workers to launch an armed rebellion against the Indian Army, to compel them to leave the State of Jammu and Kashmir.
5. On 11-7-86 another meeting was held in your house which was attended by Bilal Ahmad Misger S/o Mohmad Syed R/o Kadipora, Nazir Ahmad Khan S/o Ab. Rehman Khan R/o Mohalla Mehman, Anantnag, Mukhtar Ahmad Sofi S/o Gh. Mohammad Sofi R/o Mohalla Shah Sahib Anantnag. In the said meeting you advised your

workers to enlist the support of younger generation and motivate them to rebel against the State Government. The People of Jammu and Kashmir have not decided their future as yet and they should be given opportunity to exercise their right of Plebiscite which is the only solution of the issue. To achieve this goal, they should not care for law and order machinery. You exhorted your followers to follow the path of Palestinian and Afghan Mujahids for liberating the J & K State.

From the above specific facts, it is clear that you are bent upon to act in a way which is prejudicial to the security of the State. Hence it is decided to detain you under the provisions of J&K Public Safety Act, 1978 for which detention order has been issued. You are at present under police custody.

Sd/ seal
District Magistrate,
Anantnag

**GROUND OF DETENTION IN
RESPECT OF SHABIR AHMAD SHAH
S/O GHULAM MOHAMMAD SHAH R/O
KADIPORA, ANANTNAG.**

The aforementioned individual is the General Secretary of the Peoples League—an organization which is anti-national in character. The aims and objects of this organisation are to overthrow the Government established by law in the State to instigate, incite, provoke and abet use of force and overawe the Government. The leaders of this organisation, including the individual, openly challenge the accession of the State of Jammu and Kashmir with the

Indian Union. The individual openly says that the Constitution of India is not acceptable to them. He has also been heard saying that Kashmir should become a part of Pakistan. The individual was detained vide District Magistrate Anantnag's order No. 460/ST/85 dated 2-7-1985 in order to prevent him from indulging in illegal activities but immediately after his release he again started organising his party workers, holding of secret meetings and inciting/provoking his party colleagues to overthrow the Government established by law in the State.

1. On 6-7-86 a closed-door meeting was held in the house of the individual situated at Kadipora, Anantnag. The individual presided over the meeting. Among others, Mukhtar Ahmad S/o Gh. Mohmad Sofi R/o Mohalla Shah Sahib, Anantnag, Showkat Ahmad Baba S/o Mohmad Abdulla Baba R/o Dangerpora, Anantnag, Nazir Ahmad Khan S/o Ab. Rahaman Khan R/o Mehman Mohalla, Anantnag, Mukhtar Ahmad Waza S/o Gh. Rasool Waza R/o Gunjnag, Anantnag, Javeid Ahmad Kutwal S/o Ismail Kutwal R/o Kutwal Mohalla, Anantnag etc., participated in the meeting. The individual delivered a speech on the occasion. Addressing the participants, the individual said that detentions, trials and tribulations would not deter him from achieving his goal i.e. to annex the State of Jammu and Kashmir with Pakistan. He impressed upon the participants to get united and start a struggle against the State Government as the people of the State had yet to decide their future which could be achieved only through an impartial Plebiscite. Attacking some political leaders of Kashmir the individual said that they are traitors and they had no right to accede to India against the wishes of the people of the State. The so-called Assembly elections were an eye-

wash and the rulers of the State Government had no right to administer the State and rule the innocent Kashmiris as it is their burning desire to go with Pakistan. The so-called leaders/administrators of the State had let loose a reign of terror on the people of Kashmír as they never want to remain with the Indian Union. Besides the individual, Mukhtar Ahmad Sofi and Nazir Ahmad Khan also delivered speeches on the occasion. They welcomed the release of Shabir Ahmad Shah from detention and inter-alia assured him that they would launch movement against the State Government.

2. On 8-7-86 another secret meeting was held in the house of the individual situated at Kadipora, Anantnag. The meeting was presided over by the individual. Besides others, Mohmad Ibrahim Hajam S/o Lassi Hajam R/o Mattan, Mohmad Iqbal Rawloo S/o Sonaullah R/o Kadipora, Anantnag, Nazir Ahmad Khan S/o Ab. Rehman Khan R/o Mehman Mohalla, Anantnag and Mukhtar Ahmad Sofi S/o Gh. Mohmad Sofi R/o Mohalla Shah Sahib, .. participated in the meeting. Addressing the participants, the individual impressed upon them that they should carry out the directions given to them in the previous meeting which was held on 6-7-86 in letter and spirit. He impressed upon the audience that they should go to Schools and Colleges in the town of Anantnag and its adjoining areas to enlist the support of student community. He further said that the Government of India had illegally occupied the territory of J&K State against the wishes of the people. He instigated the audience to launch a movement against this illegal occupation and drive out the Indian Army from the soil of Kashmir. He also said that the Government of

India, through the so-called leaders/rulers of Kashmir had let loose a reign of terror in the State of Jammu and Kashmir and, therefore, [a duty] was cast upon the people of Kashmir, particularly younger generation to fight against the repression so that the "Indian dogs" are compelled to leave the state and the dream of the people to go with Pakistan becomes a reality.

3. The individual gave an interview to the Chief Editor of the "Daily Hilal-i-Nav" which was published in 14th issue of the paper dated 9th of July, 1986. Among other things, it was stated by Shabir Ahmad Shah that his party *i.e.*, the People League would continue its struggle to establish Nizam-i-Mustafa (on the pattern of Pakistan). Describing Jamat-i-Islami, Jamait-ul-Tulba and Mahazi Azadi as like minded parties, he said that these parties had supported him in the past when his party had started anti-liquor campaign. Peoples League would whole-heartedly support these parties in establishing Nizam-i-Mustafa. He disclosed that he had met Mohmad Maqbool Bhat (who was execute in Tihar Jail) Delhi who was quite satisfied with the working of Peoples League. The individual in unequivocal terms stated that Constitution of India was not acceptable to him and he was in favour of annexing the State of Jammu and Kashmir with Pakistan. Among others, Mukhtar Ahmad Sofi was also present at the time of interview. The photostat copy of interview is attached herewith. Regarding this irresponsible statement of individual made by him while giving interview to the editor of the paper. A case under FIR No. 293/86 U/S 13 Unlawful Activities (Prevention) Act stands registered against him and others at Police Station Anantnag. On being

interrogated, the individual confessed that he and his party workers had planned to disrupt the 13th July (Martyr's Day) celebrations. He further said that they had planned to take out processions and resort to violence. It may not be out of place to mention here that some workers of the Peoples League raised anti-national slogans in Srinagar on 13th of July 1986. But their designs were frustrated in the town of Anantnag due to timely action by the police by effecting the arrest of the individual and some of his party colleagues at his residence. Copy of the FIR is attached.

4. On 10-7-86 another closed-door meeting of the workers of the Peoples League was held in the house of the individual situated at Kadipora, Anantnag. Among others, Mukhtar Ahmad Sofi S/o Gh. Mohmad Sofi R/o Shah Sahib, Mohd. Eqbal Rawloo S/o Sonaullah R/o Kadipora, Mohd. Ayub Bhat S/o Mohd. Shaban Bhat R/o Mohalla Mehman, Anantnag, Bazir Ahmad Khan S/o Ab. Rehman Khan R/o Mohalla Mehman, Anantnag etc. participated in the meeting. The individual delivered a speech on this occasion. The individual in his speech said that the Government of India had occupied the territory of the State of Jammu and Kashmir on the strength of its military power. He further said that the state of J&K could be annexed with Pakistan only when the Indian Army was forced to leave the State of Jammu and Kashmir. He asked his party workers to launch an armed rebellion against the Indian Army. He further said that Government of India had made the people of Kashmir as their slaves.
5. On 11-7-86 one more closed-door meeting of the workers of Peoples League was held in the house

of the individual. Among others Bilal Ahmad Misger S/o Mohd. Syed R/o Kadipora, Nazir Ahmad Khan S/o Ab. Rehman Khana R/o Mohalla Mehman, Mukhtar Ahmad Sofi S/o Gh. Mohmad Sofi R/o Shah Sahib, Anantnag etc., participated in the meeting. The individual presided over the meeting and delivered a speech. He asked his workers to enlist the support of younger generation and in site them to rise in revolt against the State Government. He further said that the people of the State of Jammu and Kashmir had never acceded to Indian Union. People of the State had yet to decide their future and the people of the State should be given an option whether they would like to accede to India or Pakistan. He asked his workers to launch an organised campaign for achieving this goal and use force if necessary. He asked his workers that they should not care for law and order machinery. He said that the State of Jammu and Kashmir was predominantly populated by Muslims as such it should become a part of Pakistan. He asked the workers of his party to follow the path of Palestinian and Afghan Mujahids and must fight for their State in the same way in which these Mujahids were fighting for liberating their motherlands. Some other participants also delivered speeches on this occasion.

From the activities of the individual referred to above, it is manifest that he is bent upon to indulge in activities which are prejudicial to the security of the State. As stated above, the individual was detained in the year 1985 with a view of preventing him from indulging in activities which were prejudicial to the maintenance of public order then. But immediately after his release he again started holding secret meetings at his residence at Kadipora, Anantnag in which he delivered highly objectionable and inflammatory speeches. His party workers not only from the town of

Anantnag but from other places attended these meetings. He again started inciting, provoking and abetting his party workers to overawe/overthrow the Government established by law in the State. No doubt the individual is in police custody at present but there is likelihood that he may be released on bail and there is every reason to believe that he will misuse the concession and repeat his illegal activities. His being at large is prejudicial to the security of the State and as such his detention under the Provisions of the Public Safety Act, 1978 has become imperative.

Sd/
District Magistrate,
Anantnag

APPENDIX VIII

High Court of Jammu and Kashmir

at Jammu.

PRESENT

The Hon'ble Justice M.A. Shah

Writ Petition No. IIII of 1986

Shabir Ahmad Shah and others v/s

State of J&K and four others.

Mr. G.N. Goni for the petitioners.

Mr. B.S. Menhas Addl. A.G. for respondents.

1. This Habeas Corpus (writ) petition was filed as back as on October 17, 1986 which is coming up for hearing today. It is unfortunate that respondents 2, 3, 4, and 5, who are the officials of the Government like District Magistrate, Superintendent of Police, Central Jail, Incharge Interrogation centre and SHO Anantnag could not be served within the proper time prescribed by the Court and the matter was pending since October 1986 till March 20, 1987 for their service. However, State was represented through out despite that only on behalf of the State, counter by the Additional Secretary to the Government Home Department was filed on January 22, 1987 and an affidavit is filed on behalf of the detaining authority—District Magistrate Anantnag. This petition is admitted and heard at Jammu, because the petitioners are detained in Central Jail Jammu.
2. The petition challenged the detention order of both the petitioners passed by the District Magistrate Anantnag under the Section 6 of the

Public Safety Act 1978 (hereafter called the Act) issued vide order No. 406/ST86 dated July 25, 1986 and No. 338/ST/86 dated July 30, 1986 respectively. As alleged in the petition, petitioner No. 1 Shabir Ahmad Shah was arrested on July 11, 1986 alongwith whom his Drive petitioner No. 2 Nazir Ahmad Khan was also arrested. Both of whom were not produced before any Magistrate within 24 hours of their arrest as is the mandate of law and the constitution. It is further stated that initially they were arrested on the basis of FIR 293 of 1986 registered at Police Station, Anantnag on July 11, 1986. The petitioners, therefore, challenged their detention in various grounds including therein an allegation against the District Magistrate about non-application of mind and that there was no material available before him for his subjective satisfaction in detaining the petitioners.

3. It is a sorry affair and even the matter of great concern that in such matters even where the authorities of the State responsible to maintain law and order and public order and also alleged to act for the security of the State do not come forward to file the affidavit of the concerned officials and the authorities against whom the allegations are specifically made in the writ petition. Mere affidavit of the Additional Secretary of the Home Department does not in any manner mention anything about the allegations made against the District Magistrate and the other respondents, whose highhandedness has been demonstrated in the writ petition. Time and again it has been held by this Court as well as by the Apex Court that in the matters of detention like the one under the Public Safety Act or the national Security Act a citizen is deprived of his liberty without giving an opportunity to him of defending himself and in

case the authorities concerned choose not to controvert the allegations made in the petition specially the detaining authority. The District Magistrate, the order of detention is liable to be quashed specially under the circumstances as enumerated above. No assistance was advanced by the respondents even by producing the record to enable the Court to examine the same and reach to a logical conclusion. Looking to the fact that the case is pending since October 1986, I do not find it a fit case in which any opportunity can be given to the respondents to produce the record.

4. In the absence of the affidavit of the District Magistrate, the detaining authority, the subjective satisfaction arrived at by him without any support of record cannot be maintained. Moreover in the absence of any explanation by any of the authorities how their act is prejudicial to the security of the State, when they were already arrested on July 11, 1986 and on the date when the relevant orders were passed on July 25, 1986 and July 30, 1986 respectively were in the police custody. No explanation worth the same to that effect is found in the grounds of detention. All this shows non-application of mind by District Magistrate rendering the detention illegal and appears to have been passed mechanically. The petition, therefore, deserves to be allowed.
5. For the reasons stated hereinabove, the petition is allowed. The detention orders of the petitioners respectively No. 486-ST/86 dated 25-7-1986 and No. 538/ST/86 dated July 30, 1986 are hereby quashed. Petitioners are directed to be released forthwith and be set at liberty, if not wanted in any other case.

Jammu

April 27, 1988.

APPENDIX IX

GROUNDS OF DETENTION OF SHABIR AHMAD
SHAH SON OF LATE GHULAM MOHAMMAD
SHAH RESIDENT OF KADIPORA, ANANTNAG
(AGE APPROXIMATELY 39 YEARS)

GROUNDS OF DETENTION UNDER J & K PUBLIC SAFETY ACT, 1978.

You, Shabir Ahmad Shah S/o Late Ghulam Mohammad Shah resident of Kadipora, Anantnag, have been General Secretary of the People League Party and were recently elected as its Chairman. The Peoples League Party is a secessionist organisation which strives to seek secession of the J&K State from the Union of India. You had developed secessionist tendencies right from your educational career and remained affiliated with the Youth League. You have been a staunch, dedicated and active worker of the Peoples League Party and engaged in the so called liberation movement. In view of your activities highly prejudicial to the security of the State, you were detained from time to time. Details of your previous detention is given in annexure 'A'. However, these detentions failed to deter you from anti-national, secessionist and subversive activities.

After your release from detention you not only revived such activities but vigorously pursued them and motivated, incited and exhorted the people, especially Kashmiri Muslim youth to take the recourse to unconstitutional and illegal measures to achieve the objective of your party to seek secession of the State from the Indian Union.

Your activities perpetrated in the recent past are considered highly prejudicial to the security of the State, which have necessitated your being detained under the provisions of the J&K Public Safety Act 1978. The grounds of your detention are enumerated hereunder :

1. On 19th January 1989, the Peoples League Party gave a call for hartal for 26th of January 1989

(Republic Day) which was directed to be observed as 'Protest Day'. In this connection you, in your capacity as General Secretary of the party, issued a press release carrying your personal appeal that on this National Day complete hartal be observed. You urged the Shopkeepers, transporters and other sections of people to make the hartal call a big success thus clearly violating the spirit of the land requiring all citizens to give respect and honour to national days. (Copy of the Press clipping is enclosed and Annexure 'B').

2. In May, 1989 a pamphlet issued by you was brought to the notice of the Government, the title page whereof carries the map of Kashmir, with a snake sitting thereon, and a sword with the words 'La Illah Illahah Mohāammad Rasul Allah' (Pbuh) piercing the snake, in the back drop of sun. The contents of the pamphlet are highly provocative and prejudicial to the security of the State, in that the Muslim youth of the State have been called upon by you to launch a war for liberation of Kashmir from the 'subjugation of India.' (Copy of the pamphlet is enclosed as Annexure 'C').
3. Again in June 1989 a pamphlet authored by you came to the notice of the Government with the title 'UQAB'. (Copy enclosed as Annexure 'D') which carries highly inflammatory material aimed at arousing the emotions of the people against the Union of India and seeking secession with the objective of achieving independence.
4. In June 1989 yet another pamphlet came to the notice of the Government which was issued by you title page whereof indicated map of Kashmir with two cross swords thereon in the back drop of sun in which you again pleaded for liberation of Kashmir from India (Copy of pamphlet is enclosed as Annexure 'E').

5. During August 1989 a pamphlet came to the notice of the Government under the caption '15th August Ko Hartal Ki Appeal' in which you appealed to the people in general to observe Independence Day falling on 15th August 1989 as a 'Black Day' and boycott the celebrations on this national Day, thus again violating the law of the land with a view to promoting disaffection against the Union of India. (Copy of pamphlet is enclosed as Annexure 'F').
6. On the intervening night of 27/28 September 1989 while you were clandestinely fleeing in a Truck in a bid to illegally cross over the Pakistan Occupied Kashmir/Pakistan in connection with your secret and subversive mission of meeting the leaders of Jammu and Kashmir Liberation Front (known to be another subversive organisation propagating secession of Jammu and Kashmir State from the Union of India) you were apprehended and arrested by the Police near Ramban and arrested in case FIR No. 1/88 U/S 3-EAO, 3/4 TADA, 2/3 E & IMCO, 13 of Unlawful Activities (Prevention) Act, 120-B RPC P/S C.I. Kashmir. From your personal search besides other articles Pakistan currency amounting to Rs. 681/- (Rupees Six hundred eighty one) and one U.S. Dollar were also recovered. The revelations made by you and your other associate namely Mohammad Nayeem Khan S/o Ghulam Mohammad Khan R/o Khote Pattan during interrogation clearly brought out your nefarious, anti-national, subversive and secessionist activities. The case is pending investigation. (The copy of the FIR is enclosed as Annexure 'G').

In connection with your arrest, two separate writs have been filed in the Hon'ble High Court of J&K bail petition No. 309/1989 U/S 491 Cr.P.C. and Habeas Corpus petition No. 310/89. (Copies of which are enclosed as annexure H-I and H-II respectively).

From the above facts it is clearly evident that your activities are highly prejudicial to the security of the State. Your remaining at large is thus considered highly hazardous to the interests of the security of the State. Although presently you are lodged under Section 3-EAO, 3/4 TADA, 2/3 E & IMCO, 13 of Unlawful Activities (Prevention) Act, 120-B RPC P/S CIK yet your detention under the J & K Public Safety Act, 1978 is considered highly necessary in the interest of the security of the State in order to prevent you from indulging in such activities in the event of your release on bail or otherwise. It has, therefore, become imperative for me after going through material in detail and also applying my mind thereto to detain you U/S 8(i) (a)(i) of the J & K Public Safety Act 1978 to prevent you from acting in any manner prejudicial to the security of the State for the maximum period of 24 months.

Sd/-

Divisional Commissioner,
Kashmir.

APPENDIX X
HIGH COURT OF JAMMU AND
KASHMIR AT SRINAGAR

Present : The Hon'ble Mr. Justice S.M. Rizvi, Judge
Cr. M.P. No. 195 of 1990 In Habeas Corpus No.
310 of 1989.

Smt. Hassina Banco D/o Ghulam Mohmad Shah R/o
Kadkipora, Anantnag. ... Petitioner

V.S

1. State of J & K through Secretary to Government,
Home Department, Srinagar
2. Director General of Police, Srinagar
3. D.I.G. Police, Srinagar.
4. D.I.G. Police, Crime Branch, Srinagar
5. D.I.G. Police, Counter Intelligence, Kashmir
Srinagar.
6. I.G. B.S.F., Srinagar
7. S.P. Intelligence Bureau, Srinagar
8. S.P. C.I.D., Kashmir Srinagar Respondents

Application with the prayer that the relations of the petitioner namely Mohammad Syed Shah, Haballa (mother), Sakina Syed (Bhabi), Arshad Syed (Nephew), Intikhab (son) Afroz Nephew be allowed to see and interview the detainee Mr. Shabir Ahmad Shah and to disclose the place of detainee.

The Hon'ble Court has been pleased to order as under:

"Mr. M. Aijaz.

This Cr. M.P. has been filed in Habeas Corpus Petition No. 310 of 1990 in continuation of the CRMP 54/90.

In CRMP 54/90 the following prayers were made by the petitioner.

- (i) That the respondents may be directed to disclose the whereabouts of the detainee and the petitioner be informed specifically about the place of his lodgement.
- (ii) That the respondents may be directed to allow the petitioner along with her brother and her counsel to see the detainee atleast once a week during the period of detention.

As far as back as on 17th of May 1990, notice was issued in the said CRMP to the respondents as nobody appeared for them, with the result the directions were issued against the respondents on 21st June 1990.

In the present CRMP, the petitioner has prayed that the respondents, Additional Chief Secretary to Government (Home) Jammu and Kashmir Government and Director General of Police Jammu and Kashmir State, be directed to make conveniently the necessary arrangements for the persons mentioned in para(3) of the CRMP to see the detainee, and interview him for preparing of his defence.

The prayer made in the CRMP has already been granted in CRMP 54/1990. The only additional prayer made in this CRMP is regarding permission of more persons as mentioned in para(3) in this CRMP to see the detainee.

Keeping in view the circumstances of the case it is directed that the petitioner Smt. Hassina Begum alongwith her brother namely Mohammad Syed Shah, Mother of the Detenue, Smt. Habla Begum, Smt. Sakeena Syed, Arshad Syed and Intikhab, sons of the petitioner and also the counsel, Mr. Molvi Ajaz and Mr. M.A. Riyaz, advocates, shall be allowed to see the detainee and interview him for preparation of his defence.

The additional Chief Secretary (Home) J&K State Srinagar and the Director General of Police Jammu and Kashmir are directed to make immediate arrangements in

this behalf. If he is lodged in Jodhpur Jail they shall make necessary arrangements in this behalf and if he has been shifted to some other Jail they shall make all the necessary arrangements accordingly. The Superintendent of Jodhpur Jail is directed to implement the order mentioned in the aforementioned order. A copy of this order shall be given 'Dasti' or serve upon the respondents, as also on the Superintendent Central Jail concerned.

One more copy of this shall be given to the petitioner for delivery to Additional Registrar (Judicial) of the Jodhpur Bench of the Rajasthan High Court for implementation of this order.

Sd/-

S.M. Rizvi, Judge.

Srinagar

13-08-1990

No. 4952 Dated 13-08-1990

Copy of the above order forwarded to the :

1. Superintendent Central Jail Jodhpur for information and compliance

Sd/ seal

(M.M. Iqbal)

Deputy Registrar-II

High Court of J & K, Srinagar.

APPENDIX XI
IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

Write Petition (Criminal) No. 1842-51 of 1990

In the matter of :

Shabir Shah & Ors.

(Petitioners)

V.S.

Union Minister of Home and Ors.

(Respondents)

AFFIDAVIT

I, Mohd. Sayeed Shah S/o Late Mr. G.M. Shah, aged about 50 years R/o Kadipora, Anantnag, Kashmir at present temporarily in New Delhi, do hereby solemnly affirm and state as under :

1. That I am the elder brother of Mr. Shabir Shah shown as petitioner No. 1 in the above matter.
2. That I am an office bearer of J & K Muslim Conference. Prof. Abdul Gani shown as petitioner No. 7 with wrong name is the Convenor of the said organisation. I am also Pairokar of Mr. Shabir Shah, Abdul Gani, Moulvi Mohd. Abbas Ansari and Prof. Abdul Gani.
3. That I visited Central Jail, Tihar, New Delhi, where my younger brother Mr. Shabir Shah, a detenu under J & K Public Safety Act is lodged presently. In the meeting I specifically enquired about any instructions or authorisation given by him to State Legal Aid Committee, J & K to file petition on his behalf. On my enquiry, Mr. Shabir Shah told me that he was never visited by any one on behalf of State Legal Aid Committee, J & K.

Therefore, there was no occasion for him to give instruction to anyone.

4. It is stated that the whereabouts of Mr. Shabir Shah and petitioners Nos. 3, 4, and 7 was very well in the knowledge of the residents of Kashmir. It is further stated that due to disturbances in Kashmir, the family members of the petitioner Nos. 1—4 and 7 could not succeed in meeting with them at Jodhpur where they were kept in the Central Jail.
5. That on my visit to my younger brother, I found that he has been seriously ill. He is stated to have lost about 15 kgs of weight. He informed me that he was not given regular meals in Jodhpur Central Jail. He was given brinjals only to eat during his stay in Central Jail, Jodhpur. He was not given even a cup of tea. He also informed me that after his detention when he was kept in Interrogation Centre in Hari Niwas in Srinagar for about two months, he was not allowed to sleep. The room was always flooded with flood lights and he was required to stand up till he would fall down following exhaustion. He was kept in handcuffs. When he was shifted to Udampur Jail in J & K, following the legal steps taken by his sister, a team of Medical Doctors from Soura Medical Institute was sent for a medical check-up of Mr. Shabir Shah. The said team of Doctors advised certain medical check-ups including cat-scanning and advised a course of medical treatment. No steps were taken to provide the medical treatment to Mr. Shabir Shah and he was shifted to Central Jail, Jodhpur.
6. That the information in regard to shifting of Mr. Shabir Shah to Central Jail, Jodhpur was withheld from his family members. They came to know only through newspapers that he has been shifted to Jodhpur Central Jail.

7. My brother informed me that in Jodhpur Central Jail, he was tortured and kept in inhuman condition. He was kept in solitary confinement. As stated hereinabove he was given only brinjals to eat. He was kept in handcuffs and fetters on his legs. He was not allowed to wear even chappal. He was not given facility to take bath. he would be taken out of the jail in handcuff and fetters, bare foot and was asked to run on sand in hot summer days. He was not allowed to wear clothes while in solitary confinement. He was given only an under-wear whenever he was taken out of Jail surreptitiously. Whenever he would complaint of any pain or ailment, he was not provided with any medical facilities. In times of acute pain, he was given tablets of 'Baralgan'. In spite of his repeated requests for a proper medical treatment, no effort was made to provide him the same. Even during the visit of the deponent yesterday he was found shivering and touching various parts of his aching body. He is being given tea in Central Jail, Tihar. But no steps have so far been taken to provide him proper medical treatment. Mr. Shabir Shah informed the deponent that he approves of the application filed by the deponent in the Supreme Court. He also informed the deponent that he will give necessary and appropriate instructions to his counsel Mr. Romesh C. Pathak, Advocate, in regard to seeking proper medical treatment apart from other necessary legal instructions. He informed the deponent that when he was kept under above said conditions, there was no occasion for him to give instructions to anyone for seeking recourse of his legal rights.
8. Mr. Abdual Gani Lone, Moulvi Mohd. Abbas Ansari and Prof. Abdul Gani (wrongly described as Prof. Gulam Mohd. Gani, leader, Jamait-i-Islami) shown

as petitioners Nos. 3, 4 and 7 have also given their Vakalatnama in favour of Shri Romesh C. Pathak, Advocate, with instructions to say and submit to the Court that the petition filed by State Legal Aid Committee, J & K on their behalf has been filed without their instructions or authorisation and that they want to be disassociated themselves from the said petition.

VERIFICATION

I, Mohd. Sayeed Shah, the deponent named above, do hereby solemnly affirm and verify that the contents of the above affidavits are true and correct.

Verified on this 11th day of December 1990 at New Delhi.

Sd/ Deponent

APPENDIX XII

Registrar Tribunal,
Government of Jammu and Kashmir.

Kindly refer to Government order No. 150 dated 16-04-1990. I am to submit that where pledges and promises, resolutions and agreements, declarations and commitments are honoured in breach rather than in observance; where principles of justice, precepts of ethics, norms of human behaviour and the fundamentals of political propriety are unabashedly violated, where human rights are ruthlessly suppressed, voices outrageously muffled, and movements revengfully restricted, where human blood flows like the holy waters of 'Ganga' and rape and arson, not counting thousands languishing in prisons behind iron-bars, is taken recourse to, with a compunction day and in day out by the followers of Gandhiji—the preacher of non-violence, and the admirers of Mr. Nehru—the Champion of human rights, and where security forces have with impunity, unleashed a reign of terror and let loose hell in the heaven on earth banning and let loose hell in the heaven on earth banning an organisation or organisations should, as a matter of fact, cause no concern, muchless any alarm. The banning of organisations by the authorities whose hands are full of blood and whose hearts are full of venom, can not, with reference to the situation obtaining in Jammu and Kashmir, turn the tide and cloud the ground realities. This is true that they applied the axe but unfortunately for them liquidation, to their dismay, could not follow. I am afraid of the application becomes harder, the handle may break and the axe in the process may strike the striker deeper. We shouldn't forget natural justice ultimately prevails. I wish the authorities could learn a lesson.... !

Let us prefer to be human, leave fighting to the animal get together to resolve the Kashmir dispute peacefully on

the basis of the United Nations Security Council resolutions in the larger interests of peace and prosperity of the people in the sub-continent. Obduracy and intransigence, imbued with hatred will carry us where.... ? This is what the Peoples League is devoted to and strives for; and let there be no mistake about it that the organisation shall ceaselessly endeavour to secure for the people. Their inviolable right to determine their future in consistence with their wishes. Never forget, this is precisely what Mr. Nehru and many others in India espoused and stood for. Even when he was counting his last days he worked hard to resolve the dispute and to realise the objective he sent a delegation comprising leaders from Kashmir to Pakistan. But then, destiny willed otherwise. Mr. Nehru died; and then happened what was to happen — a vacuum in the political life of India with dreadful consequences appeared. Needless to say that the followers could not emulate any of his political imagination, boldness and astute statesmanship. Would that the leaders follow in his footprints and resolve disputes peacefully.

I don't think I need waste your precious time and answer the details given in the annexure which merit absolutely in the present context no consideration. The details are tendentious and carry no substance and no weight. This is just what is is—an exercise in futility. In politics realities rather than rhetorics count. True statesmanship consists not in ignoring realities but in accepting them however unpleasant they may be. What are the realities ? May I venture to count just a few of them for your consideration :

1. That Kashmir is a dispute rooted in the political history of the sub-continent.
2. That the dispute was referred to the UN Security Council by India, converting it thereby into an international issue.
3. That the Security Council adopted a resolution granting to the people of Jammu and Kashmir the

right to determine their future through a plebiscite under the United Nations auspices.

4. That even the Russian Chief delegate did not vote against the resolution.
5. That both India and Pakistan earnestly accepted the historic resolution of the Council.
6. That both India and Pakistan, as also the United Nations organisation are committed legally and morally to implement the resolution in letter and spirit.
7. That the Governor General of India Mr. Mountbatten in his letter addressed to the Maharaja of Kashmir writes,

Consistently with their policy that in the case of any state where the issue of accession has been subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as the law and order have been restored in Kashmir the question of State's accession should be settled by a reference to the people.

(27 October 1947.)

8. That the U.N. Security Council in yet another resolution declared in un-equivocal terms that the Constituent/legislative assembly of Kashmir cannot decide on the future of the State. Any such action shall be considered as null and void. Even Mr. Nehru remarked in the parliament that —

the Kashmir Assembly's action is one-sided and it can not, therefore, subvert the United Nations resolution. Elections and Plebiscite are distinctly two different political terms with absolutely different connotations and

implications. No intermingling is either possible or acceptable.

9. That the joint communiques, pacts and agreements, besides, of course, lot many other diplomatic exercises between leaders of the sub-continent, a record on history, sufficiently proves that the future of the State is yet to be determined by the people of Jammu and Kashmir.
10. That the position taken by some friends as to the time factor and changed circumstances are historically irrelevant, politically unacceptable and strategically dangerous.
11. That Kashmir dispute constitutes a potential threat to the security of the region ; and it is therefore incumbent on the parties to the dispute to rise to the occasion and settle the dispute in the interests of peace and prosperity of the people in the sub-continent.

May I in the end say in all humility that the atrocities being perpetrated on the people in Kashmir by the security forces must breed hatred and contempt with obviously dire consequences to follow. I wish reason could dawn and as a consequence genuine efforts are set a foot to resolve the dispute once and for all in the interests of peace.

Thanks,

26 February 1991

Shabeer Ahmad Shah
Kadipora, Islamabad,
Kashmir

APPENDIX XIII

M. A. Riaz,
M.A. LL.B.
Advocate
J&K High Court,
Srinagar, (Kashmir).

Phone 30925
214, Sanat Nagar,
Srinagar-190005
Dated : June 16th 1993

Dear Mr. Otto,

Thank you very much for your letter dated May 4th 1993 for expressing concern for Mr. Shabir Ahmad Shah, a detainee in the Central Jail, Jammu. I am further grateful for your efforts to get him released. Your efforts to approach the Government of India for this purpose in welcomed and highly appreciated herein Kashmir.

Mr. Shabir Ahmad Shah was arrested on 28th of November 1989 after having served a period of detention for more than three years in various jails in India more particularly in Tihar Jail, Delhi, Mahrouli Detention Camp, Delhi and Jodhpur Jail, Rajasthan. He was shown to have been released from preventive detention but his arrest was affected in another case registered under Sections 3/4 Terrorist and Disruptionist Prevention Act, 120-M, 153-A of Rambir Penal Code and under Section 3 of Enemy Agents Ordinance. The charge sheet under the aforesaid sections was presented before the Designated Court of Jammu which is meant to try the cases arising out of Terrorist and Disruptionists Prevention Act. The charge sheet was presented in the court on 12th of November 1991. The offences hereinabove referred are non-bailable and carry a sentence of imprisonment upto ten years. It is the discretion of the Court rather the discretion of the Government whether to admit the charged person to bail. The procedure is that where the person is intended to be

released he is offered bail on the very first day of the presentation of the charge sheet. I am enclosing herewith the certified copy of the interim order dated 14th November 1991 when Mr. Shabir Ahmad Shah was first produced in the Designated Court. The interim order passed by the Court will indicate that no bail was offered to him.

It is absolutely wrong on the part of the Government of India to say that Mr. Shabir Ahmad Shah wishes to remain in detention for his own safety. I may here say that the Government of India is apprehensive that in the release of Mr. Shabir Ahmad Shah the people of Kashmir will find a rallying point and they will rise in revolt under his leadership for achieving the goal of right of self-determination.

Looking forward to your cooperation in the matter.

With best regards,

Mr. Herbert Otto,
Crednerstr. 14, D—6300.
Giessen, Germany

Yours Sincerely,
Sd/
M.A. Riaz, Advocate

ANNEXTURE XIV

Government of Jammu and Kashmir, Home Department

Notification,

Srinagar, the 16th April, 1990

SRO No. 150

- (a) Whereas the Peoples League is an Association :
Which encourages or bids persons and its sympathisers to undertake unlawful activities within the meaning of the Jammu and Kashmir Criminal Law Amendment Act of 1983.
- (b) The members of which undertake such activities.
- (c) Such persons and sympathisers and members aforesaid have for its objects activities and actions which interrupt and aim at interference with the public administration, the administration and the maintenance of law and order and which constitute a danger to the public peace.
- (d) Such person and sympathisers and members aforesaid have for its objects activities and actions which are intended to encourage and which encourage, aid and incite the people to undertake objective which are offences punishable u/s 153 A 153 B of the State Rambir Penal Code.
- (e) Such persons and sympathisers and members aforesaid have for its objectives, activities and action which are intended or which may form a part of the scheme intended to threat or likely to threat or disrupt or likely to disrupt harmony between different religious groups of the State.
- (f) Such persons and sympathisers and members aforesaid have for its objects activities and action which are intended or which form part of the scheme intended to cause or likely to cause, even

alarm and feeling of insecurity amongst of different religious groups and communities in the State.

- (g) Such persons, sympathisers and members aforesaid, by words, either spoken or written or by signs or visible representation have indulged in activities e.g. after the formation of the Peoples League the leaders of the party desired to have arms training imparted to their workers secretly on the pattern of Chinese guerillas. On 1984 the group provoked the Muslim and the youth to take to arms. In may 1986 Farooq Rehmani provoked the religious sentiments of the Muslims and tried to provoke people on the writ petition filed in the Calcutta High Court on the issue of Holy Quran. The group has also given a call for boycotting Republic Day celebrations.

And whereas for all or any of the grounds set in preceding paragraph as also on the basis of other facts and materials in its possession which the State Government considers to be against the public interest to disclose, the State Government is of the opinion that the said Peoples League is an unlawful Association.

Now there upon in exercise of the powers conferred by sub-section (1) of Section of the Jammu and Kashmir Criminal Law Amendment Act, 1983 the Government of Jammu and Kashmir hereby declares the Peoples League as an unlawful organisation.

Any person, whether any member of the aforementioned association or party interested, can make a representation in respect of this Notification to the Government of Jammu and Kashmir within a period of thirty days from the date of issuance of this Notification, if he so desires.

By order of the Government of Jammu and Kashmir.

Sd/-

Additional Chief Secretary (Home)
J&K Government, Srinagar,

Herbert Otto,
Crednerstr.
W 6300 Giessen, Germany

ai amnesty
international

Kashmir Bar Association
The High Court

Sektion der Bundesrepublik
Deutschland e.V.
Bezirk 3355 Gruppe 1413

Srinagar
Jammu and Kashmir
India

Giessen 16 Oct., 1991

Dear Friends,

I am writing to you as a member of amnesty international (*ai*). As I have already written to you in my letter—dated with 16 July 1991 out ai-group in Giessen, Germany, is working on the case of Shabir Ahmed Shah, Leader of the People's League. Mr. Shah comes from Anantnag in South Kashmir, where his mother, Habla Begum, still lives. His father died in police custody in Anantnag. Mr. Shah was arrested at Ramban, Jammu Region, on 28 September, 1989 on the basis of the Terrorist and Disruptive Activities (Prevention) Act (TADA). *ai* is concerned that he is being held in detention without any charge or trial. Besides, he may have suffered ill-Treatment in prison. *ai* is also concerned about his health ; he reportedly suffers from kidney trouble. He was held in Tihar Jail, Delhi, and — according to the *INDIAN EXPRESS* of 8 July 1991 — after this he was moved to a tightly secured farm-house near Mehrauli in Delhi together with four other pro-secessionist Kashmir militant leaders.

We are taking up the case of Mr. Shah for investigation to find out more about the reasons for his detention. Especially we are interested in

— the exact section of TADA he has been charged under,

- whether any trial has taken place or sentence passed,
- the conditions of his detention, especially his access to legal aid and medical attention,
- newspaper articles and legal documents about the case.

I look forward to hear from you.

Best wishes.

Sd/-

**AMNESTY
INTERNATIONAL
USA**

322 Eighth Avenue,
New York 10001 - 4808
(212) 807. 8400
Telex : 666628 Fax (212) 627 - 1451

February 4, 1992

Dear Dr. Farrque Khan,

Amnesty International has received your letter of concern about Mr. Shabir Shah. Our organization has taken up his case for investigation, believing that he may be a prisoner of conscience. The Amnesty International groups who are working on his behalf have yet to receive any response from the Indian authorities.

Our latest information is that as of July 1991 Mr. Shabir Shah was being held in a tightly secured farmhouse near Mehrauli in Delhi. There was also a report that he may be released as part of a concessionary measure before possible elections in the state, although this seems unlikely at present.

It you happen to have more recent and reliable information about Mr. Shabir Shah and the legal grounds for his continued detention, please forward it to :

Matthew Zagor — Asia Region RD
Amnesty International
International Secretariat
1 Easton Street London WC1X 8DJ
United Kingdom

Thank you for your concern.

Best Wishes from Amnesty International.

Sincerely,
AI Case/Country Action Unit

APPENDIX XV

AMNESTY'S VIEWS

(The Times of India August 2 1993)

Sir, _____

Following your article, "Amnesty In knots Over Prisoner of Conscience" (July 17) by Mr. Subhash Kirpekar, Amnesty International (AI) confirms that it considers Shabir Shah to be a prisoner of conscience.

Shabir Shah, a leader of the People's League, has been detained without trial for nearly four years, without any charge being made under ordinary criminal procedures that he used or advocated violence. Amnesty International has adopted him as a prisoner of conscience because, as several earlier press reports noted, he is one of the few militants who believe in non-violence. In the grounds for his detention under the Jammu and Kashmir Public Safety Act, 1978, it is stated that he had called for strikes, had been the author of leaflets calling for Kashmir's independence from India and for boycott in independence day. All these, if true, are non-violence activities involving peaceful expressions of his views.

Amnesty International adopted people as prisoners of conscience on the basis of the reasons for arrest at the time the arrest is made, not on the basis of any statements made or attributed to a prisoner since then. In Shah's case this was in 1989. In an interview with the *Kashmir Times*, (December 2, 1991) he is reported as favouring a "broadbased dialogue" to find a solution to the Jammu and Kashmir problem, adding that taking to guns was no solution. In later interview in the same paper of November 7, 1992 he is quoted as saying that "the gun has become an integral part of the liberation struggle" and that it "should be used

properly". From this it is not clear whether he has changed his views on non-violent means to achieve a different status for Kashmir.

It is not a "departure from practice" for Amnesty International to report as extensively on human rights abuses by armed opposition groups as it does on human rights violations by government forces. The organization has done so consistently for many years and described such abuses, for example, in great detail in its 1991 report on human rights violations in Punjab.

Finally, it is curious that your correspondent should criticise Amnesty International for not doing enough reporting on the abuses committed by such groups, while being equally critical when Amnesty International does so. As we have already noted in a previous response on this point, Amnesty International is pleased to hear that the thumb of Mr. Dev was in fact not cut off by a Kashmiri militant group, as was claimed. Our main source of information on this point was report in the Press Trust of India.

ANITA TIESSEN
Head of Press and Publications
Amnesty International
London.

APPENDIX XVI

Shabir Ahmad Shah — A Profile

Born on June 4th 1954, at Kadipora in the Southern township Anantnag, Kashmir, Shabir Shah had a humble background. His father was a business man. His early schooling took place at the Christian Missionary Tyndale Biscoe Memorial School at Srinagar. Political awareness dawned on him at an early age of 14. At this young age Shabir Shah organised a protest demonstration against the visit of Jayaprakash Narayan who was a senior political leader of India. This led to Shah's first arrest for a period of three months. His long history of interrogation and torture begins from here. He was shifted continuously from one interrogation centre to another since this lad proved to be made of some different "metal" which his interrogators found difficult to break.

Shabir Shah was still in prison when Sheikh Abdullah entered into an accord with the then Prime Minister of India (late) Indira Gandhi and through this modus operandi assumed the reins of power at the State. Shabir Shah continued to deliberate on the Kashmir problem even while in the prison. He would often engage other political detainees into discussions regarding the future settlement of Jammu and Kashmir through plebiscite. This "misbehaviour" seemed irk the authorities and efforts to lure him and "win him back" were started. Sheikh Abdullah along with his wife, who also played an "active political role" in the State, visited Shah in the prison and tried to "bring" him to their point of view. Shabir Shah refused point blank and instead argued that he never recognised the sanctity or the validity of various election held in Jammu and Kashmir from time to time. Shah's solution to Kashmir imbroglio always lay in the right of self determination to its people. For the peace ful settlement of the issue Shah advocates a tripartite dialogue between

India, Pakistan and Kashmir, the later being the most important party to the dispute. As if the tortures suffered by him personally were not enough his father Ghulam Mohammad Shah was arrested and tortured to death by the police in 1989.

Shah was last arrested on 28th Sept, 1989 and this arrest sent off a chain of violent demonstrations throughout the state resulting the death of six civilians and a protest bandh for seven consecutive days.

Today, in his life of 40 years Shabir Shah has spent over 20 years in prison. The concern for his selfless sacrifice for the cause of his fellow countrymen has recently found expression when the Amnesty International declared him a Prisoner of Conscience and pressed for his unconditional release. Shabir Shah's popularity has cut across religious and geographical barrier in the State and he is equally loved and respected by the communities and regions comprising Jammu and Kashmir. The present armed insurgence against Indian occupation has vindicated Shah's stand that the people of Jammu and Kashmir have not accepted the State's accession to India, which as Shah believes has been the result of a narrow minded political ambition of Sheikh Abdullah and the instrument of prolongation of a dynastic rule. In Shah's political philosophy the repressive measures let loose on the people of the State by the alien ruler are a manifestation of an organised anarchy and thus an affront to the world Conscience.

TABLE REPRESENTATION OF SHABIR SHAH'S CONFINEMENT
Place of Detention

Year	Place of Arrest	Prison	Interrogation	Period Court Trials if any	Act under which/
1968/69	Anantnag		Police Lock-up Police Station, Anantnag Begh-i-Mehtab Srinagar	3 months	
1970	Anantnag	Central Jail Srinagar		8 months	
1971	Anantnag	Police lines Anantnag P.S. Pahalgam		15 months	(DIR) Defence of
1972	Anantnag	Central Jail Srinagar		7 months	
1973	Srinagar	Central Jail Srinagar Sub Jail Kathua	Beg-i-Mehtab Srinagar JIC	9+3 (12 months)	
1974	Anantnag	Central Jail Srinagar	Red-16 Bgh-i-Mehtab JIC	18 + 4 (22 months)	DIR
1976	Anantnag	CJ Srinagar Special I	Talab Tulu Interrogation	28 + 3 (31 months)	MISA
1979		Jai Jammu-Heranagar	Centre Jammu	5 months	
1980	Anantnag	CJ Srinagar	Police Look-up Kokernag	12+2 (14 months)	PSA ; Public Safety Act
1982	Srinagar	CJ Srinagar	Police Lock-up Kothi Bagh	10 + 3 (13 months)	FIR No : 44-PSA
			Bagh-i-Mehtab JIC	148/153 RPG	
			Police Lock-up		

Cont.

TABLE REPRESENTATION OF SHABIR SHAH'S CONFINEMENT

Place of Detention

Year	Place of Arrest	Prison	Interrogation	Period Court Trials if any	Act under which/
1983	Anangnag		Duru & Kokernag	3 months	
1984	Brazulla, Srinagar	Heeranagar, CJ Srinagar Sub Jail Kud	Red - 16	24+3 27 months	PSA PSA
1986	Anantnag	CJ Jammu	Police Lines Anantnag Police Lock-up Kothi Bagh Red - 16	20 + 2 22 months	FIR No. 293 13 ULA Anantnag TADA/PSA
1989	Ramban	Sub Jail Udhampur CJ Jodhpur Tehar Jail/Mehrauli Camp Delhi CJ Jammu	Red - 16 45 days	60 months	

20 years till 18 June 1994 still in Jail.

APPENDIX XVII

AN APPEAL TO WORLD CONSCIENCE

Dear Friends,

Kashmir is one of the most serious problems that plagues and threatens the prospects of world peace today. Geographically and politically situated at the fulcrum of the sub-continent's strategy, the innocent and peace loving inhabitants of this Venice of Asia are paying for the intrigues which are perpetrated by an alien ruler. The human and political aspirations of this nation have been subjugated to play the role of the under-dog. The frustrations of its erstwhile Maharaja were masterminded into a Machiavellian accession. Without reference or respect for the basic right of every human being, the Indian imperialism, in line with the Doctrines enshrined in the documents of Chanakya that embodiment of Indian Machiavelli, stage-manned an intriguing drama. The writ and voice of a megalomaniac, Sheikh Mohammad Abdullah was projected by Indian leadership as the voice of millions of Kashmiris, which includes the regions Jammu, Ladakh and the Valley. The impacts of the pure personal relationships, existing between Pandit Jawahar Lal, the then Prime Minister India and Sheikh Mohammad Abdullah were transformed into the accession of the state with India. This singular unfortunate event has let loose a nuclear reaction and the form of atrocities, oppression, betrayals, rapes and what not on the innocent inhabitants of his Hill State. The policy of appeasement and lack of decent sense of compassion for fellow human beings have forced our youth to launch an armed struggle against the oppressor whose right to rule us has never been recognised by all of us. We have carried on a very long non-violent struggle against the Indian occupiers and have met with

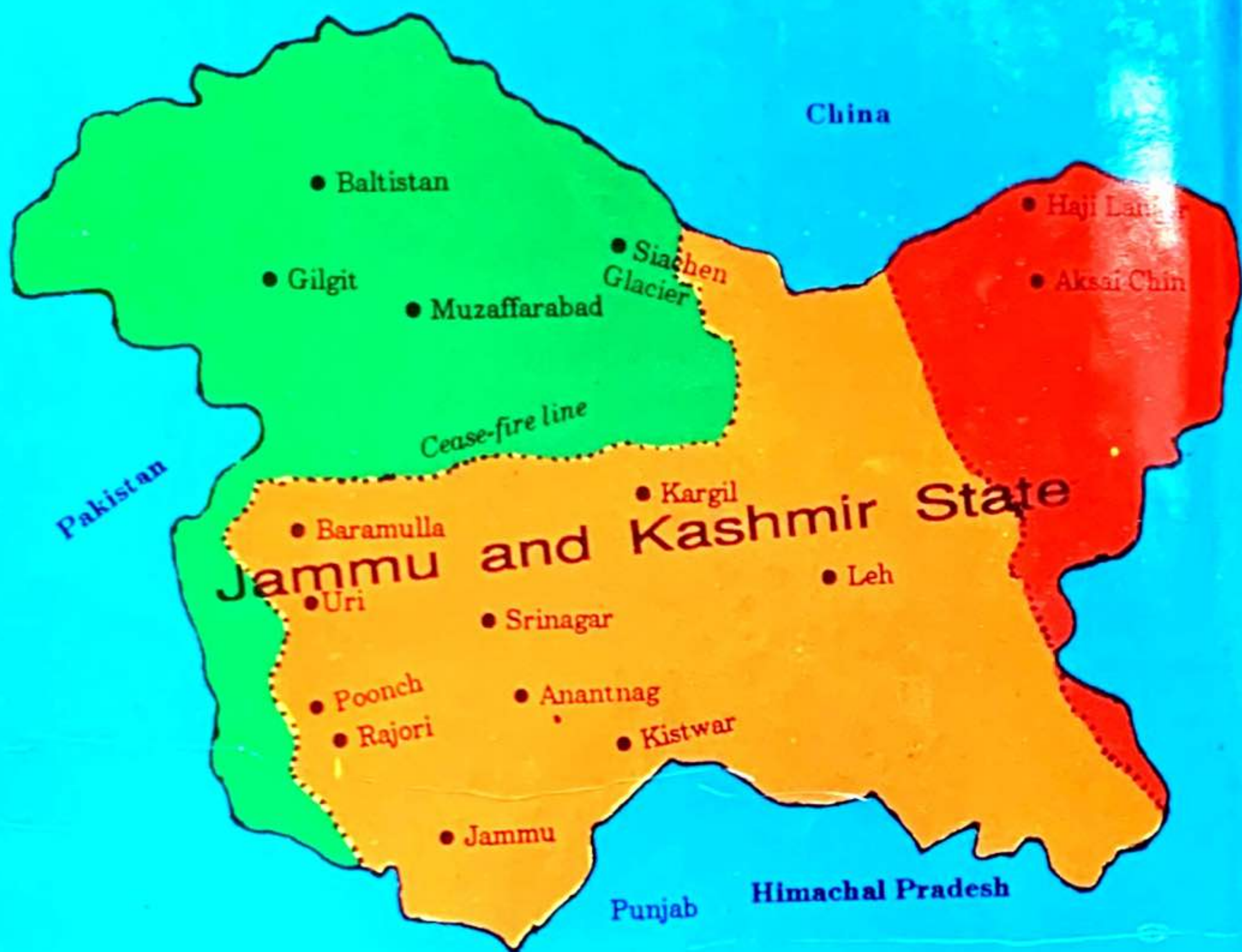
scorn and a deeper hurt to our national pride. The non-violent struggle of Kashmiris has often been termed as an exhibition of lack of will and timidity. It was widely argued nationally and internationally by the Indian political leaders that the absence of an armed insurgence in the state marked evidence to Kashmiris acceptance of accession as the ultimate reality. Our peaceful demonstrations, marches, sit-ins etc. were labelled as interpretations of our acceptance of a "Gandhian Way" of life. This has pushed us to the wall and forced us to start a rational and logical armed struggle against the Indian hegemony. I assure and guarantee the world fraternity that the recourse to arms is an extreme step forced on us to meet force with force and it is not aimed at creating harm to the respect and well-being of any peace-loving human being. We are fully aware of our obligations to the world community and the charges levelled against our movement of being subversive or terrorist are a part of the Indian propaganda. We assure the world fraternity that our sole aim is to achieve the right of self-determination for our homeland. We do not intend to do any harm to foreigners, or even the Indian citizens. Our struggle is aimed at the oppressor and we shall always stand up against the aggressor.

I would take this opportunity to appeal to all fellow human beings, irrespective of religion, caste, colour, creed or country to join us in our hour of destiny. I appeal to the World Conscience to take a dispassionate stock of our plight and see for themselves the inhuman cruelties and Draconian atrocities perpetrated on our women, children and other countrymen for the sole fault that we seek justice and the rights guaranteed to all citizens of the the World by the U.N. Charter and those enshrined in the U.N. Resolutions on Kashmir from time to time.

The recent developments in the world and their impact on Kashmir cannot be overlooked. It is really a matter of relief that honest and cogent efforts are being undertaken to defuse tension in the troubled lands worldwide. Nothing

can be more meaningful than sincere and genuine efforts to look for peace in areas plagued with war and strife. The awareness about peace and human rights is more conspicuous today than at other times in our history. The cold neglect of strife and ethnic wars have created destruction and brought misery to not only the developing countries but also in developed Europe. From Bosnia to Somalia, from Ethiopia to South America, poverty, hunger, exploitation and mad pursuit of power had slowly been eating the vitals of human existence. Afghanistan today presents a challenge to both the people of that country and the prospect of a permanent peace in Asia. Kashmir is literally smouldering in the fires that are not the doing of peace loving Kashmiris, but simply the result of an adamant and cruel occupation trait of Indian hegemonic politics. It is already late but still it is better than never that the world is gradually rising up and applying itself to save Kashmiris from the dark prospect of total elimination at the hands of occupation forces. If peace is to be given a lasting change in the sub-continent then all peace loving nations shall have to do more than mere words to bring back dignity to our land. Peace should not be a means to continue the present impasse, it must be painstakingly worked out in line with the political aspirations of Kashmiri people. The sooner this is realised, the better for all of us.

Shabir Ahmad Shah
Central Jail
Jammu.



An appeal to the World Community

If North and South Vietnam can reunify, if the Berlin wall can get dismantled resulting in reunification of Germany, there is no logic why the artificially drawn cease-fire line should not vanish so that the presently divided Kashmir gets unified. We assure the world fraternity that our sole aim is to achieve the **right of self-determination** for our land, and the recourse to arms is an extreme step forced on us to meet force with force, without doing harm to any individual or community. We love peace and want peaceful solution to the Kashmir Problem.

I am waiting in Indian captivity for the shackles of my country to be removed, for if slavery is not the order of the day *why then does Kashmir languish in bondage?*

Help us in our mission.

(SHABIR SHAH)